IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF

MARCH TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

AND
THE HON'BLE MR JUSTICE P.S.NARAYANA

W.P.NOs. 11620 of 2004, 10601 of 2004, 13525 of 2004, 12970 of 2004, 21863 of 2004, 1834 of 2005, 1836 of 2005, 1838 of 2005, 1858 of 2005, 1861 of 2005, 2011 of 2005, 1348 of 2005, 18149 of 2004, W.P.Nos. 6098 of 2005, 6099 of 2005, 6100 of 2005 & 6097 of 2005

WRIT PETITION NO : 11620 of 2004

Between:

1.A.Ravinder Singh, s/o A. Ram Singh, Aged 37 years,

Superintendent of Customs & Central Excise,

Office of the Deputy Commissioner of Customs & C.E.,

Kurnool Division, Tirupati Commissionerate.

2.C.Sudheer Kumar, aged 36 years, Superintendent of Customs

& Central Excise, Office of the Deputy Commissioner of

Customs & C.E., Kurnool Division, Tirupati Commissionerate.

3.J.Suyanarayana Reddy S/o J. Narayana Reddy, Age 37 years,

Superintendent of Central Excise, Hqrs. Office, Tirupathi

Commissionerate,Tirupathi.

4.V.Sudhakar, Superintendent of Customs & Central Excise,

Office of the Deputy Commissioner of Customs & C.E.,

Kurnool Division, Tirupati Commissionerate.

5.Md. Jaffar Razikh, Superintendent of Customs & Central

Excise, of the Deputy Commissioner of Customs & C.E.,

Kurnool Division, Tirupati Commissionerate.

6.Jidigam Srinivas, Age 37 years, Office of the Commissioner of

Customs & C.E. Hqrs. Office, Tirupathi Commissionerate,

Tirupathi

7.V.Vinay Kumar, S/o V.Jagadishchandra Gupta, aged 35 years,

Office of the Commissioner of Customs & C.E. Hqrs. Office,

Tirupathi Commissionerate, Tirupathi

8.K.Venkateswara Rao S/o K.Mohan Rao, Aged 35 years, Office

of the Commissioner of Customs & C.E. Hqrs. Office, Tirupathi

Commissionerate,Tirupathi

9.T.Srinivasa Rao S/o T.Gurunadha Rao, Aged 38 years, Office

of the Commissioner of Customs & C.E. Hqrs. Office, Tirupathi

Commissionerate,Tirupathi.

10.G.R.V.Satish S/o G.Suryanarayana, Aged 38 years, Office of

the Superintendent of Customs & C.E., Kurnool-II Range,

Kurnool Division, Kurnool.

11.J.Ajay Kumar Reddy S/o J.Sidda Reddy, Aged 37 years,

Office of the Commissioner of Customs & C.E. Hqrs. Office,

Tirupati,Commissioner,Tirupathi

12.C.Charan Kumar Reddy S/o C.Suryanarayana Reddy, Aged

41 years, Superintendent of Central Excise P & I Unit,

Tirupathi Division, Tirupathi, Commissionerate

13. L. Madhusudhan Goud S/o L.Tirupal Rao, Aged 38 years,

Superintendent of Central Excise, Tirupathi-I Range,

TirupathiCommissionerate.

14.B.S.Rajani Kanth S/o B.Srinivasulu Naidu, Aged 38 years,
Superintendent of Central Excise, Chittoor -I Range,

Tirpuathi,Commissionerate.

15.P.Jagan Mohan Reddy S/o P. Gangi Reddy, Aged 38 years,

Superintendent of Central Excise, Technical Section,

Tirupathi Division, Tirupathi Commissionerate.

16.Rebbpragada Srinivasa Rao S/o Veera Venkaiah,Aged 36

Years, Superintendent of Central Excise, Anti-evasion, Hqrs.

Office, Vizag-II Commissionerate, Port Area, Visakhapatnam.

17.B.Sreenivasa Gandhi S/o B.N.Rao, Aged 35 years, S.I.O.

DRI, Plot No.499, Rd.No.12 Banjara Hills, Hyderabad.

18.Niranajan Singh S/o Kripal Singh, Aged 37 years,

Superintendent of Central Excise Rajam Range, Rajam.

19.T.Amrutha Rao, S/o Almarprabhu, Aged 41 years

Superintendent of Central Excise, Tribunal Section, Hqrs.

Office,Vizag-II Commissionerate.

20.M.Ashish Kumar S/o U.K.Merani, aged about 38

Years, Superintendent of Central Excise H.Q. Audit,

Port Area, Visakhapatnam –II Commissionerate.

21.V.Srikanth Rao, Aged 35 years, Superintendent of Central

Excise, Payakaraopet Range, Payakaraopet Visakhaptnam

District.

22.G.N.A.Srinivasa Rao S/o G.V.Bhaskara Rao, Aged 37 years,

Hq.Technical, Port Area, Visakhapatnam-I Commissionerate.

23.S.Giridhar S/o S.V.Krishna Rao, Aged 36 years,
Superintendent of Central Excise, HQ. Technical , Port Area,

Visakhaptanam Commissionerate.

24.K.R.S.Shanker, S/o K. Ramakrishna Rao, Aged 36 years,
Superintendent of Central Excise, HQ. Technical , Port Area,

Visakhaptanam Commissionerate

25.J.Ravi Kumar S/o Jeevanandam, Aged 39 years,

Superintendent of Central Excise, HQ. Technical , Port Area,

Visakhaptanam Commissionerate

26.S.S.Bhanu Sarma S/o SVS Sudarshana Sastry, Aged 36

years, Superintendent of Central Excise HQ CIU,

Visakhapatnam Commissionerate, Port Area, Visakhapatnam.

27.Y.Srinivasa Murthy S/o Y.Subramanyam, Aged 38 years,

Superintendent of Central Excise HQ Review, Visakhapatnam

Commissionerate, PortArea,Visakhapatnam

28.F.A.Cooper. S/o Ralph Cooper, Aged 36 years,
Superintendent of Central Excise CC's Office, Port Area,

Visakhapatnam.

29.S.Srinivasa Chakravarthy S/o S.N.C. Ramanjaneyulu, Aged

38 years, Superintendent of Central Excise, CC' s Office, Port

Area,Visakhapatnam.

30.A.V.Narsimham S/o A.V.Narayana, Aged 39 years,
Superintendent of Central Excise Range-I, Division-I,

Visakhapatnam-I Commissionerate, Visakhapatnam

31.P.Mohan Vamsy S/o P.Balagangadhar, Aged 34 years,

Superintendent of Central Excise Anakapalli range,

Anakapalli

32.I.Ramalingeswera Rao S/o Late I.Ramakrishnaiah, Aged 37

years,SIO,DRI,Visakhapatnam

33.S.A.Vidya Sagar S/o A.V.Chainulu, Aged 39 years,

Superintendent of Central Excise VSP-I Range,

Visakhapatnam Steel Plant, Visakhapatnam

34.M.K.Srinivas Murthy, S/o M.Narasimhachary, Aged 39 years,
Superintendent of Central Excise Chief Commissioner's

Office, Port Area, Visakhapatnam.

35.B.V.Veerabhadra Rao S/o Late B.Harihara Rao, Aged 38

years, Superintendent of Central Excise Hq Audit,

Visakhapatnam -I Commissionerate, Port Area,

Visakhapatnam

36.K.Jagan Mohan S/o K.Venkata Rao, Aged 35 years,
Superintendent of Central Excise HQ Anti Evasion,

Visakhapatnam-I Commissionerate, Port Area,

Visakhapatnam

37.R.Raghavendra Rao S/o R.Bhavannarayana Rao, Aged 36

years, Superintendent of Central Excise HQ Anti Evasion,

Visakhapatnam-I Commissionerate, Port Area

Visakhapatnam

38.G.S.R.Naidu S/o Seetanannaidu, Aged 38 years,
Superintendent of Central Excise HQ CIU, Visakhapatnam-I,

Commissionerate, Port Area, Visakhapatnam.

39.A.M.Matthews, S/o K.Mathew, Aged 39 years,
Superintendent of Central Excise CC's Office, Port Area,

Visakhapatnam.

40.P.Murali Krishna S/o P.Venkatesweralu, aged 35 years,

Superintendent of Central Excise Kakinada-II Division,

Kakinada

41.P.Sambasiva Rao S/o P.Nageswera Rao, Aged 38 years,
Superintendent of Central Excise, Custom House, Kakinada

42.R.Hasan S/o Turab Hussain, Aged 38 years,

Superintendent of Central Excise, Custom House, Kakinada

43.U.Viswanatham S/o U.Mallikarjunudu, Aged 38 years,
Superintendent of Central Excise, Custom House, Kakinada.

44.M.R.D.Varma S/o M.Venkaiah, Aged 37 years,

Superintendent of Central Excise, Range-II, Kakinada.

45.V.Kamala Seena W/o V.Manoj Kumar, Aged 37 years,

Superintendent of Central Excise Hqrs. Office, C.R. Buildings,

K.V.Thota,Guntur

46.V.Manoj Kumar S/o V.V.S.R.Murthy, Aged 35 years,
Superintendent of Central Excise Technical Section,

C.R.Buildings, Bandar Road, Vijayawada

47.A.V.G.K.Murthy S/o A.V. Hanumantha Rao, Aged 37 years,

Superintendent of Central Excise Range-III, C.R.Buildings,

Bandar road, Vijayawada.

48.M.Sreeharsha S/o M.Prasada Rao, aged 38 years,

Superintendent of Central Excise Range-IV, C.R.Buildings,

BandarRoad,Vijayawada

49.K.S.S.Janardhana Rao S/o K.Narayana, Aged 37 years,

Superintendent of Central Excise, Technical Section, Hqrs,

Office,C.R.Buildings,K.V.Thota, Guntur

50.Ch.Rama Rao S/o Late Ch.Venkatesweralu, aged 36 years,

Superintendent of Central Excise, Adjudication Section
Hqrs.Office, C.R. Buildings, K.V. thota, Guntur

51.G.Naveen Kumar S/o Narendra Rao, aged 37 years,
Superintendent of Central Excise Hqrs. Office, Guntur

Commissionerate,Guntur

52.G.Seetha Rama Raju S/o Late G.Mohsi, Aged 38years,
Superintendent of Central Excise Divisional Office,

Viajawada.

53.N.G.V.Rama Lakshmi W/o G.T.Kumar, Aged 37 years,

Superintendent of Central Excise Hqrs.Office, CR.Buildings,

K.V.Thota, Guntur

.... PETITIONERS

AND

1.The Chief Commissioner of Customs & Central Excise,

Hyderabad Zone, Kendriya Shulk Bhavan,L.B.Stadium

Road, Basheerbagh, Hyderabad-500004

2.The Commissioner of Customs & Centre Excise Hyderabad II

Commissionerate, Kendriya Shulk Bhavan L.B.Stadium

Road, Basheerbagh, Hyderabad-500004

3.The Chairman, Central Board of Excise and Customs North Block, New Delhi-110 001

4.The Government of India , Rep. by its Secretary, Department of Personal and Training, Ministry of Home Affairs, North Block, New Delhi-1100 001

5.S.Rama Rao, Inspector of Central Excise, S/o S.V.Ramana, Inspector of Central Excise, Ghatkesar Rage, Habsiguda, Street No.4, Hyderabad.

6.V.L.N.Srinivas , Inspector of Central Excise Hqrs. Office, Central Excise Technical Section, Hyderabad-III Commissionerate, K.S.Bhavan, Basheerbagh, Hyderabad

7.B.S.Murthy, Inspector of Central Excise, CIU, Hyderabad-II Commissionerate, Kendriya Shulk Bhavan, Hyderabad -4

8.A.Hari Gopal, Inspector of Central Excise, Cherlapalli-II Range, Street No.4, Habsiguda, Hyderabad-500 007.

9.K.L.S.Kishore Babu, Inspector of Central Excise Kukatpally-II Range, Aswani Hair Oil Building, Moosapet, Hyderabad.

10.M.Srinivas Rao , Inspector of Central Excise , Hqrs office Central Excise Technical Section, Hyderabad-I Commissionerate, K.S.Bhavan, Basheerbagh, Hyderabad

11.K.Sudhakar, Inspector of Central Excise, Service Tax Section

Hqrs. Office, Hyderabad-III Commissionerate, K.S.Bhavan, Basheerbagh, Hyderabad.

12.D.Swamiji Rao, Inspector of Central Excise, Hyderabad-J Division, CLS Building, Nampally Station Road, Hyderabad.

13.Ch.V.Dhanujaya Rao, Inspector of Central Excise,

Azamabad-II Range,C/o VST Factory, Musheerabad,

Hyderabad

14.G.Subash Chandra Bose, Inspector of Central Excise,

Bollarum-II Range, Opp.ICICI Bank, K.P.H.B.,

Hyderabad-72.

15.M.Sambasiva Rao, Inspector of Central Excise, Divisional

Office, Vijayawada Division, C.R.Buildings, Bandar Road

Vijayawada-2.

16.G.V.B.G.Tilak, Inspector of Central Excise, Range-I,

C.R. Buildings, Bandar Road, Vijayawada -2

17.Y.Srirama Chandra Murthy, Anti-evasion, Hyderabad-III

K.S.Bhavan, Basheerbagh, Hyderabad

18.A.Vijaya Lakshmi, Superintendent of Central Excise,

Division-N, Technical Section, opp.Hanuman Temple,

New Bowenpalli, China Thokatta, Secunderabad -3

19.T.Ramamohana Rao, Inspector of Central Excise,

Kukatpally-I Range, Aswani Homeo Hair Oil Building,

Moosapet, Hyderabad

20.P.M.V.Kusuma Kumari, Inspector of Central Excise
O/o the Superintendent of Central Excise, Mallapur Range,

Habsiguda, Hyderabad.

21.K.V.Lakshmi, Inspector of Central Excise, Audit Section,

Hyderabad -I Commissionerate, K.S.Bhavan,Basheerbagh,

Hyderabad

22.S.Chellammal, Inspector of Central Excise, SIIB,

Hyderabad-II commissionerate, Kendriya Shulk Bhavan

L.B.Stadium Road, Basheerbagh, Hyderabad-500 004

23.S.Badarinath, Inspector of Central Excise, Air Cargo

Complex, Begumpet, Hyderabad

24.L.Janakiramaiah , Inspector of Central Excise Divisional

Office, Service Tax, Vijayawada Division, C.R.Buildings,

Bandar Road, Vijayawada-2

25.A.Visweswera Rao, Inspector of Central Excise ,Service

Tax Section, Divisional office, Vijayawada Division,

C.R. Buildings, Bandar Road, Vijayawada-2

26.D.Usha Rani, Inspector of Central Excise, Range-IV

Vijayawada, C.R.Building, Bandar Raod, Vijayawada-2

27.C.V.Subramanyam , Inpsector of Central Excise , Division-N,

Opp.Hanuman Temple, New Bowenpalli, China Thokatta,

Secunderabad -3

28.K.Subramanya Sarma, Inspector of Central Excise,

Adjudication Section, Hyderabad-IV, Commissionerate,

Posnett Bhavan, Tilak Road, Hyderabad

29.M.V.S.Prasad, Superintendent of Customs & Central Excise

Audit Section, Hqrs. Office, C.R.Buildings, K.T.Thota, Guntur

30.C.Paul Dinakar Babu, Inspector of Customs & Central Excise,

Divisional Office, Vijayawada Division, C.R.Bulidings, Bandar

Road, Vijayawada-2

31.Syed Imtiaz Ahmed, Inspector of Customs & Central

Excise, Rajiv Gandhi International Airport, Begumpet,
Hyderabad.

32.Shaik Meera Mohaddin, Inspector of Customs & Central

Excise, Bollarum-III Range, Opp. ICICI Bank, K.P.H.B Main

Road, Hyderabad -72

33.Syed Abdullah, Inspector, Kothur-I Range, Shamshabad

Rangareddy Distirct.

34.Syed Ikramulla Shah, Inspector, Customs & Central Excise

Department , Divisional Office, Nellore

35.V.Hemanath Kumar, Inspector, Statistics, Hqrs. Office

Hyderabad -IV Commissionerate, Posnett Bhavan,

Ramkote, Hyderabad.

36.R.Surendra Kumar, Inspector, Hqrs Preventive Unit,

K.V.Thota, Guntur-4

37.Mohd.Tajuddin, Inspector of Central Excise, Sullurpet Range,

Sullurpet, Nellore District.

38.K.V.R.S.N.S.Kumar, Occ: Superintendent of Central Excise,

Audit Section, Hqrs. Office, Port Area, Visakhapatnam -II Commissionerate, Vizag-35

39.D.Ramulu, Occu: Superintendent of Central Excise,

Division-V, Dwaraka Nagar, Near Diamond Park,

Visakhapatnam

40.P.Bhaskar Reddy, Occu: Superintendent of Central Excise,

Audit Section, Hyderabad-I Commissionerate, K.S.Bhavan,

Basheerbagh, Hyderabad.

41.P.Nagabhushanam, Occu: Inspector of C. Excise,

Azamabad-II Range, C/o VST Factory, Musheerabad,

Hyderabad

42.R.Sridhar, Occu: Superintendent of C. Excise,Hqrs.Office,

Hyd-II Commissionerate, Basheerabagh, Hyderabad.

43.M.Rama Rao, Occu: Inspector of C.Excise, Kompally Range,

Chinna Thokatta, New Bowenpally, Secunderabad.

44.S.V.S.Nageswera Rao, occu: Inspector of C. Excise, Rajiv

Gandhi International Airport, Begumpet, Hyderabad.

45.M.Balaji Singh, occu: Inspector of C. Excise, Hqrs. Office,

Hyd-III Commissionerate, Basheerbagh, Hyderabad

46.G.Suryanarayana, occu: Inspector of C. Excise, Audit

Section, Hqrs. Office, Hyd-I Commissionerate, Basheerbagh,

Hyderabad

47.P.Gopal Reddy, Occu: Inspector of Customs &

Central Excise, Ragiv Gandhi International Airport,

Begumpet, Hyderabad.

48.Md. Rafiuddin, occu: Inspector of C. Excise, Hqrs. Office,

Hyd-I Commissionerate, Basheerbagh, Hyderabad.

49.Mohd. Sirajuddin, occu: Inspector of C. Excise, UB Unit, Air

Cargo Complex, Begumpet, Hyderabad

50.D.Srikanth, occu: Inspector of C. Excise, P & I Unit,

Divisional Office, Hyderabad-F Division, CLS

Building,Nampally, Hyderabad.

51.M.V.Subba Rao, occu: Inspector of C. Excise, Hqrs. Office,

Audit Section, Hyd-III Commissonerate, Basheerbagh,

Hyderabad

52.Nagesh V.Rao, Occu: Inspector of Customs & Central Excise,

Rajiv Gandhi International Airport, Begumpet, Hyderabad.

53.Abdul Hafeez, occu: Inspector of C. Excise, Hqrs. Office,

Statistics, Hyd-I Commissionerate, Basheerbagh, Hyderabad

54.B.Paneswera Rao, occu: Inspector of C. Excise, Kothur-I

Range, Shamshabad, Ranga Reddy District

55.G.Arun Kumar, occu: Inspector of C. Excise, Tribunal

Section, Hqrs, Office, Hyd-I Commissionerate, Basheerbagh,

Hyderabad.

56.K.Raja Kishore, occu: Inspector of C. Excise, Hqrs. Office,
Tirupathi Commissionerate, Tirupathi.

57.Sri Hari Kishan Rao, Occu: Superintendent of Customs &

Central Excise, Chitkul Range, Vivekananda Nagar,

Kukatpally, Hyderabad-072

58.Sri Sudarshan Wellington, Occu: Superintendent of Customs

& Central Excise, Jeedimetla-II Range, Chinna Thokatta,

New Bowenpally, Secunderabad.

59.Sri.J.Jayaraj, occu: Inspector of Customs & Central Excise,

Bollarum-I Range, Opp.: ICICI Bank , KPHB, Hyderabad -72

60.Sri K.Kusa Kumar, occu: Superintendent of Customs & Central Excise, Hqrs. Office, Hyderabad -II Commissionerate, Basheerbagh, Hyderabad.

61.Sri P.Vasudeva Rao Occu: Superintendent of Customs & Central Excise,Nellore Division, Santhapat, Nellore.

62.Sri Ch.Rambabu, occu: Inspector of Customs & Central Excise,Division-M, Chinna Thokatta, New Bowenpally, Secunderabad

63.Sri.D.Srirama Sastry, occu: Inspector of Customs & Central Excise, Nagar Range, Posnett bhavan, Ramkote, Hyderabad.

64.A.S.Prabhakar Rao , Inspector of Central Excise O/o Supdt. of Central Excise, Ameerpet Range, Posnett Bhavan, Ramkote, Tilak Road, Hyderabad.

65.K.Yugandhar, occu: Inspector of Central Excise, Adjudication, Hqrs. Office, Hyderbad-I Commissionerate, K.S.Bhavan, Basheerbagh, Hyderabad-4

66.B.G.Madhav Reddy, occu: Inspector of Central Excise, Selective Audit, Hqrs. Office, Hyderabad-1 Commissionerate, K.S.Bhavan, Basheerbagh, Hyderabad-4

67.P.V.Ratnakara Rao, occu: Inspector of Central Excise, Kattedan Range, Posnett Bhavan, Tilak Road, Ramkote, Hyderabad.

68.M.Vijaykumar occu: Inspector of Central Excise, Anti-Evasion, Hyderabad-III Commissionerate, K.S.Bhavan, Basheerbagh, Hyderabad –4.

69.T.Kaladhara Raju, occu: Inspector of Central Excise, Kothur-I Range, Shamshabad, Ranga Reddy District

70.S.S.Rajurkar, occu: Inspector of Central Excise, Service Tax, Division-D, CLS Building, Nampally, Hyderabad.

71.S.Hanuma Prasad, Occu: Intelligence Office, Directorate of

Revenue Intelligence, Plot No.499, Road No.12 Banjara Hills, Hyderabad –34

72.T.Anandmohan, occu: Inspector of Central Excise, Kothur-I Range, Shamshabad, Ranga Reddy District.

73.Y.Satyanarayanamurthy, occu: Inspector of Central Excise, Preventive Unit, Diivision-G, CLS Building, Nampally Station Road, Hyderabad.

74.P.Rajendra Prasad, occu: Inspector of Central Excise, Hqrs. Office, Adjudication, Hyderabad-II Commissionerate.

75.D.Malleswar, occu: Inspector of Central Excise, Division-G, Habsiguda, Street No.4, Habsiguda, Hyderabad.

76.B.Manohar occu: Inspector of Central Excise, Charminar-I Range, Posnett Bhavan, Ramkote, Hyderabad.

77.M.A.Qadeer, occu: Inspector of C. Excise, Division-F, CLS Building, Nampally, Hyderabad.

78.M.Koteswera Rao, occu: Superintendent of C. Excise, Technical Section, Vizag-I , Commissionerate, Port Area, Visakhapatnam.

79.Sayeed Ahmed, occu: Inspector of C. Excise, Nirmal Range, Indira Nagar, Post Office Building, Nirmal, Adilabad District

80.E.D.Sarovoram, occu: Inspector of C. Excise, Ameerpet Range, Posnett Bhavan, Tilak Road, Hyderabad.

81.N.Prakash Rao, Superintendent of Customs & Central Excise, Kurnool of Hyd-II Commissionerate, Kurnool

82.T.Vivekananda, Superintendent of Customs & Central Excise, Eluru Divisional Office, Eluru

83.P.N.V.Prasad, Inspector of Customs & Central Excise, Rajiv Gandhi International Air Port, Begumpet, Hyderabad.

84.D.Chandraskehar Rao, Inspector of Customs & Central

Excise , Rajiv Gandhi International Air Prot, Begumpet,

Hyderabad.

85.S.Gopalkrishna Murthy, Inspector of Customs & Central

Excise, Divisional Office, C.R. Building, Bandar Road,

Vijayawada-2

86.Md. Mustafa Ali, Inspector of Customs & Central Excise

Guntur Commissionerate, Guntur.

87.Md.Suleman, Inspector of Customs & Central Excise, Legal

Section, Hyderabad-IV Commissionerate, Posnett Bhavan,

Ramkote, Hyderabad.

88.P.Koteswera Rao, Inspector of Customs Central Excise

Divisional office, C.R.Buildings, Bandar Road, Vijayawada

89.T.V.R.Sambasadasiva Rao, Customs & Central Excise,

Hyderabad-B Division, Opp.ICICI Bank, K.P.H.B Main Road,

Hyderabad -72

90.S.Kameshwera Rao , Inspector of Central Excise,

Vizianagaram Division, Vizianagaram.

91.Ch.Venkata Rao, Inspector of Central Excise, Palasa Range,

Palasa, Srikakulam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly in the nature of Writ of Certiorari Calling for the records relating to the Common order dated: 29/12/2003 in O.A.No.938/02, 953/02, 954/02, 990/02, 994/02, 1017/02, 1021/02, 1022/02, 1050/02 & 701/2003 on the file of the Hon'ble Central Administrative Trinunal, Hyderabad Bench, Hyderabad and Quash the same.

Counsel for the Petitioner: MR.K.SUBRAHMANYAM

Counsel for the Respondents No.1 to 4: MR.A.RAJASHEKAR REDDY

(ASSISTANT SG)

Counsel for the Respondents No.5 to 64 &

81 TO 88 ; MR. P. NAVEEN RAO

Counsel for the Respondents No.65 to 80: MR. B.G. RAVINDRA REDDY

Counsel for the Respondents No. 89: MR. Y. VENKATESH REDDY

Counsel for the Respondents No.90: MR. K.K. SRINIVAS

Counsel for the Respondents No.91: MR. M. KESAVA RAO

WRIT PETITION NO : 10601 of 2004

Between:

1.G.Vikram Reddy, S/o G. Komurella Reddy, Aged 36 years,

Superintendent of Customs & Central Excise, Office of the

Assistant Commissioner of Customs & C.E.Cuddapah Division,

Cuddapah

2.K.Ravi Kiran, S/o K.Venkateswara Rao,Aged 38 years,
Superintendent of Customs & Central Excise, Office of the

Commissioner of Customs & C.E., Visakhapatnam-I,

Commissionerate, Visakhapatnam.

..... PETITIONERS

AND

1.The Chief Commissioner of Customs & Central Excise,

Hyderabad Zone, Kendriya Shulk Bhavan,L.B.Stadium

Road, Basheerbagh, Hyderabad-500004

2.The Commissioner of Customs & Centre Excise Hyderabad II

Commissionerate, Kendriya Shulk Bhavan L.B.Stadium Road, Basheerbagh, Hyderabad-500004

3.The Chairman, Central Board of Excise and Customs North Block, New Delhi-110 001

4.The Government of India , Rep. by its Secretary, Department of Personal and Training, Ministry of Home Affairs, North Block, New Delhi-1100 001

5.S.Rama Rao, Inspector of Central Excise, S/o S.V.Ramana, Inspector of Central Excise, Ghatkesar Rage, Habsiguda, Street No.4, Hyderabad.

6.V.L.N.Srinivas , Inspector of Central Excise Hqrs. Office, Central Excise Technical Section, Hyderabad-III Commissionerate, K.S.Bhavan, Basheerbagh, Hyderabad

7.B.S.Murthy, Inspector of Central Excise, CIU, Hyderabad-II Commissionerate, Kendriya Shulk Bhavan, Hyderabad -4

8.A.Hari Gopal, Inspector of Central Excise, Cherlapalli-II Range, Street No.4, Habsiguda, Hyderabad-500 007.

9.K.L.S.Kishore Babu, Inspector of Central Excise Kukatpally-II Range, Aswani Hair Oil Building, Moosapet, Hyderabad.

10.M.Srinivas Rao , Inspector of Central Excise , Hqrs office Central Excise Technical Section, Hyderabad-I Commissionerate, K.S.Bhavan, Basheerbagh, Hyderabad

11.K.Sudhakar, Inspector of Central Excise, Service Tax Section Hqrs. Office, Hyderabad-III Commissionerate, K.S.Bhavan, Basheerbagh, Hyderabad.

12.D.Swamiji Rao, Inspector of Central Excise, Hyderabad-J Division, CLS Building, Nampally Station Road, Hyderabad.

13.Ch.V.Dhanujaya Rao, Inspector of Central Excise,

Azamabad-II Range, C/o VST Factory, Musheerabad,

Hyderabad

14.G.Subash Chandra Bose, Inspector of Central Excise,

Bollarum-II Range, Opp.ICICI Bank, K.P.H.B.,

Hyderabad-72.

15.M.Sambasiva Rao, Inspector of Central Excise, Divisional

Office, Vijayawada Division, C.R.Buildings, Bandar Road

Vijayawada-2.

16.G.V.B.G.Tilak, Inspector of Central Excise, Range-I,

C.R. Buildings, Bandar Road, Vijayawada -2

17.Y.Srirama Chandra Murthy, Anti-evasion, Hyderabad-III

K.S.Bhavan, Basheerbagh, Hyderabad

18.A.Vijaya Lakshmi, Superintendent of Central Excise,

Division-N, Technical Section, opp.Hanuman Temple,

New Bowenpalli, China Thokatta, Secunderabad -3

19.T.Ramamohana Rao, Inspector of Central Excise,

Kukatpally-I Range, Aswani Homeo Hair Oil Building,

Moosapet, Hyderabad

20.P.M.V.Kusuma Kumari, Inspector of Central Excise
O/o the Superintendent of Central Excise, Mallapur Range,

Habsiguda, Hyderabad.

21.K.V.Lakshmi, Inspector of Central Excise, Audit Section,

Hyderabad -I Commissionerate, K.S.Bhavan,Basheerbagh,

Hyderabad

22.S.Chellammal, Inspector of Central Excise, SIIB,

Hyderabad-II commissionerate, Kendriya Shulk Bhavan

L.B.Stadium Road, Basheerbagh, Hyderabad-500 004

23.S.Badarinath, Inspector of Central Excise, Air Cargo

Complex, Begumpet, Hyderabad

24.L.Janakiramaiah , Inspector of Central Excise Divisional

Office, Service Tax, Vijayawada Division, C.R.Buildings,

Bandar Raod, Vijayawada-2

25.A.Visweswera Rao, Inspector of Central Excise ,Service

Tax Section, Divisional office, Vijayawada Division,

C.R. Buildings, Bandar Road, Vijayawada-2

26.D.Usha Rani, Inspector of Central Excise, Range-IV

Vijayawada, C.R.Building, Bandar Raod, Vijayawada-2

27.C.V.Subramanyam , Inpsector of Central Excise , Division-N,

Opp.Hanuman Temple, New Bowenpalli, China Thokatta,

Secunderabad -3

28.K.Subramanya Sarma, Inspector of Central Excise,

Adjudication Section, Hyderabad-IV, Commissionerate,

Posnett Bhavan, Tilak Road, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Certiorari Calling for the records relating to the Common order dated 29-12-2003 in O.A.No.938 of 2002 & Batch and R.A.No.17 & 18 of 2004 in O.A.Nos.938 of 2002 on the file of the Hon'ble Central Administrative Tribunal, Hyderabad bench, Hyderabad

Counsel for the Petitioners: MR.K.KANAKA RAJU

Counsel for the Respondent Nos.1 to 4 : MR.A.RAJASHEKAR REDDY

(ASSISTANT SG)

Counsel for the Respondent No.5 : MR. P. NAVEEN RAO

Counsel for the Respondent Nos.6 to 28: None appeared

WRIT PETITION NO : 13525 of 2004

Between:

1.A.V.S. Mallikharjuna Rao, S/o. Sri Umamaheswara Rao, Aged 36 years, Senior Intelligence Officer, D.R.I. Hyderabad.

2.B.L. Adinarayana, S/o. Sri Sambasiva Rao, Aged 37 years, Superintendent of Central Excise, Divisional Office, Nellore.

3.Y.V. Sarala Devi, W/o. Sri Narasimha Rao, 39 years, Superintendent of Central Excise, H.Qrs Office, Commissionerate IV, Posnett Bhavan, Abids, Hyderabad.

..... PETITIONERS

AND

1.The Chief Commissioner of Customs & Central Excise, Hyderabad Zone, Kendriya Shulk Bhavan,L.B.Stadium Road, Basheerbagh, Hyderabad-500004

2.The Commissioner of Customs & Centre Excise Hyderabad II Commissionerate, Kendriya Shulk Bhavan L.B.Stadium Road, Basheerbagh, Hyderabad-500004

3.The Chairman, Central Board of Excise and Customs North Block, New Delhi-110 001

4.The Government of India , Rep. by its Secretary, Department of Personal and Training, Ministry of Home Affairs, North Block, New Delhi-1100 001

5.S.Rama Rao, Inspector of Central Excise, S/o S.V.Ramana, Inspector of Central Excise, Ghatkesar Rage, Habsiguda, Street No.4, Hyderabad.

6.V.L.N.Srinivas , Inspector of Central Excise Hqrs. Office, Central Excise Technical Section, Hyderabad-III Commissionerate, K.S.Bhavan, Basheerbagh, Hyderabad

7.B.S.Murthy, Inspector of Central Excise, CIU, Hyderabad-II

Commissionerate, Kendriya Shulk Bhavan, Hyderabad -4

8.A.Hari Gopal, Inspector of Central Excise, Cherlapalli-II Range, Street No.4, Habsiguda, Hyderabad-500 007.

9.K.L.S.Kishore Babu, Inspector of Central Excise Kukatpally-II Range, Aswani Hair Oil Building, Moosapet, Hyderabad.

10.M.Srinivas Rao , Inspector of Central Excise , Hqrs office Central Excise Technical Section, Hyderabad-I Commissionerate, K.S.Bhavan, Basheerbagh, Hyderabad

11.K.Sudhakar, Inspector of Central Excise, Service Tax Section Hqrs. Office, Hyderabad-III Commissionerate, K.S.Bhavan, Basheerbagh, Hyderabad.

12.D.Swamiji Rao, Inspector of Central Excise, Hyderabad-J Division, CLS Building, Nampally Station Road, Hyderabad.

13.Ch.V.Dhanujaya Rao, Inspector of Central Excise, Azamabad-II Range,C/o VST Factory, Musheerabad, Hyderabad

14.G.Subash Chandra Bose, Inspector of Central Excise, Bollarum-II Range, Opp.ICICI Bank, K.P.H.B., Hyderabad-72.

15.M.Sambasiva Rao, Inspector of Central Excise, Divisional Office, Vijayawada Division, C.R.Buildings, Bandar Road Vijayawada-2.

16.G.V.B.G.Tilak, Inspector of Central Excise, Range-I, C.R. Buildings, Bandar Road, Vijayawada -2

17.Y.Srirama Chandra Murthy, Anti-evasion, Hyderabad-III K.S.Bhavan, Basheerbagh, Hyderabad

18.A.Vijaya Lakshmi, Superintendent of Central Excise, Division-N, Technical Section, opp.Hanuman Temple,

New Bowenpalli, China Thokatta, Secunderabad -3

19.T.Ramamohana Rao, Inspector of Central Excise,

Kukatpally-I Range, Aswani Homeo Hair Oil Building,

Moosapet, Hyderabad

20.P.M.V.Kusuma Kumari, Inspector of Central Excise
O/o the Superintendent of Central Excise, Mallapur Range,

Habsiguda, Hyderabad.

21.K.V.Lakshmi, Inspector of Central Excise, Audit Section,

Hyderabad -I Commissionerate, K.S.Bhavan,Basheerbagh,

Hyderabad

22.S.Chellammal, Inspector of Central Excise, SIIB,

Hyderabad-II commissionerate, Kendriya Shulk Bhavan

L.B.Stadium Road, Basheerbagh, Hyderabad-500 004

23.S.Badarinath, Inspector of Central Excise, Air Cargo

Complex, Begumpet, Hyderabad

24.L.Janakiramaiah , Inspector of Central Excise Divisional

Office, Service Tax, Vijayawada Division, C.R.Buildings,

Bandar Raod, Vijayawada-2

25.A.Visweswera Rao, Inspector of Central Excise, Service

Tax Section, Divisional office, Vijayawada Division,

C.R. Buildings, Bandar Road, Vijayawada-2

26.D.Usha Rani, Inspector of Central Excise, Range-IV

Vijayawada, C.R.Building, Bandar Raod, Vijayawada-2

27.C.V.Subramanyam , Inpsector of Central Excise , Division-N,

Opp.Hanuman Temple, New Bowenpalli, China Thokatta,

Secunderabad -3

28.K.Subramanya Sarma, Inspector of Central Excise,

Adjudication Section, Hyderabad-IV, Commissionerate,

Posnett Bhavan, Tilak Road, Hyderabad

29.M.Yedukondalu, Superintendent of Central Excise,

Hindupur-I Range, Hindupur, Ananthapur (Dist.)

30.G. Vikram Reddy, Superintendent of Central Excise,

O/o Asst. Commissioner of Customs & C. Excise,

Cuddapah Division, Cuddapah.

31.R. Sai Surya Prasad, Superintendent of Central Excise,

O/o. Asst. Commissioner of Customs & Central Excise,
Divisional Office, Kurnool Division, N.R.Pet, Kurnool.

32.B. Vijaya Lakshmi, Superintendent of Central Excise,

Technical Section, 'N' Division, Plot No.240,

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Secunderabad-500 011.

33.S.Rajendra Kumar Reddy, Superintendent of Central Excise,
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R.F. Road, Ananthapur.

34.K.Satish, Superintendent of Central Excise, O/o. Asst.

Commissioner of Central Excise, Divisional Office, Kurnool

Division, N.R.Pet, Kurnool.

35.S.A. Vidyasagar, Inspector of Central Excise, Audit Section,

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Basheerbagh, Hyderabad-500 004.

36.G. Naveen Reddy, Superintendent of Central Excise,

Audit Section, Head Quarters Office, Vizag-II

Commissionerate, New Central Excise Bldgs, Port Area,

Visakhapatnam-530 035.

37.K. Ravi Kiran, Superintendent of Central Excise, Tribunal

Section, Hqrs. Office Port Area, Visakhapatnam-I

Commissionerate, Visakhapatnm-530 035.

38.G.V. Venugopala Raju, Superintendent of Central Excise,

Range-V, Rajahmundry, East Godavari District.

39.G.V. Durga Prasad, Inspector of Central Excise, O/o. The Chief Commissioner of Customs & C. Excise,Hyderabad Zone, Kendriya Shulk Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad - 500 004.

40.K.V. Rama Devi, Superintendent of Central Excise, O/o. The Assistant Commissioner of Central Excise, Division-'H', 3/1 & 3/2, Street No.4, Habsiguda, Hyderabad.

41.P. Balaji, Inspector of Central Excise, Technical Section, Hyderabd-I Commissionerate, Kendriya shulk Bhavan, Basheerbagh, Hyderabad-4.

42.Rachakonda Srinivas, Inspector of Central Excise, O/o. the Superintendent of Central Excise, Bollaruam-I, Range, Opp: ICICI Bank, Kukatpally Housing Board, Hyderabad - 500 072.

43.S. Suresh Kumar, Superintendent of Central Excise, O/o. the Assistant Commissioner of Customs & Central Excise, Divisional Office, Kurnool Division N.R Pet, Kurnool.

44.D. Srinivas Reddy, Superintendent of Central Excise, Yerraguntla Range, Yerraguntla, Cuddapah District.

45.G.R. Srinivas, Superintendent of Central Excise, Audit Section, Head Quarters Office, Vizag-II, Commissionerate, New Central Excise Building, Port Area, Visakhaptanam - 530 035.

46.S. Seetharami Reddy, Superintendent of Central Excise,Anti-Evasion Section, Hqrs. Office, Port Area, Visakhapatnam-II, Commissionerate, Visakhaptanam - 530 035.

47.Rajkumar Jaiswal, Superintendent of Central Excise, Divisional Office, O/o. the Assistant Commissioner of Central Excise, D.No.13-3-309, THAKAI Towers,

R.F. Road, Ananthapur.

48.L. Sai Sekhar, Superintendent of Central Excise, O/o. the Assistant Commissionr of Central Excise, Division-I, Venkateswara Shopping Complex, Dwaraka Nagar, Visakhapatnam-530 035

49.M.V.S.Prasad, Superintendent of Customs & Central Excise Audit Section, Hqrs. Office, C.R.Buildings, Kannavari Thota, Guntur

50.C.Paul Dinakar Babu, Inspector of Central Excise, Service Tax, Divisional Office, Vijayawada Division, C.R. Buildings, Bandar Road, Vijayawada-2

51.Syed Imtiaz Ahmed, Inspector of Customs, Rajiv Gandhi International Airport, Begumpet, Hyderabad.

52.Shaik Meera Mohaddin, Inspector of Central Excise, O/o the Superintendent of Central Excise, Bollarum-III Range, Opp. ICICI Bank, K.P.H.B Main Road, Hyderabad –500 072

53.Syed Abdullah, Inspector of Central Excise, Office of the Superintendent of Central Excise, Kothur-I Range, Shamshabad, Rangareddy Distirct.

54.Syed Ikramulla Shah, Inspector of Central Excise, Divisional Office, 10-530, L.V.Ramana Reddy Buildings, Santhapet, Nellore-524 001.

55.V.Hemanath Kumar, Inspector of Central Excise, Statistics Section Hyderabad -IV Commissionerate, Tilak Road, Posnett Bhavan, Ramkote, Hyderabad-1.

56.R.Surendra Kumar, Inspector of Central Excise, Hqrs Office, Preventive Section, C.R. Buildings, KannavariThota, Guntur-522 004.

57.Mohd.Tajuddin, Inspector of Central Excise, O/o the

Superintendent of Central Excise, Sullurpet Range,

Sullurpet, Nellore District.

58.K.V.S.N.Kumar, Superintendent of Central Excise,

Audit Section, Hqrs. Office, Port Area, Visakhapatnam -II Commissionerate, Visakhapatnam 530 035

59.D.Ramulu, Occu: Superintendent of Central Excise,

Division-V, Venkateswera Shopping Complex, Dwaraka

Nagar, Visakhapatnam.

60.P.Bhaskar Reddy, Superintendent of Central Excise,

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Hyderabad.

61.P.Nagabhushanam, Inspector of Central Excise, O/o the

Superintendent of Central Excise, Azamabad-II Range,

C/o VST Factory, Musheerabad, Hyderabad

62.R.Sridhar, Superintendent of Central Excise, Hqrs. Office,

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L.B.Stadium Road Basheerabagh, Hyderabad-4

63.M.Rama Rao, Inspector of Central Excise, Kompally Range,

Plot No. 240, Opp: Hanuman Temple, Chinna Thokatta, New

Bowenpally, Secunderabad-500 011.

64.S.V.S.Nageswera Rao, Inspector of Custom, Rajiv

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65.M.Balaji Singh, Inspector of Central Excise, Hqrs. Office,

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66.G.Suryanarayana, Inspector of Central Excise, Audit

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Kendriya Shulk Bhavan, L.B.Stadium Road, Basheerbagh,

Hyderabad-4.

67.P.Gopal Reddy, Inspector of Customs, Ragiv Gandhi

International Airport, Begumpet, Hyderabad.

68.Md. Rafiuddin, Inspector of Central Excise, Hqrs. Office,
Anti-evasion, Hyderabad-I Commissionerate, Kendriya
Shulk Bhavan, L.B.Stadium Road, Hyderabad-4.

69.Mohd. Sirajuddin, Inspector of Central Excise, UB Unit,
Air Cargo Complex, Begumpet, Hyderabad.

70.D.Srikanth, Inspector of Central Excise, P & I Unit,
Hyderabad-F Division, Divisional Office, CLS
Building,Nampally Station Road, Hyderabad.

71.M.V.Subba Rao, Inspector of Central Excise, Hqrs. Office,
Audit Section, Hyderabad-III Commissonerate, Kendriya
Shulk Bhavan, L.B.Stadium Road Basheerbagh,Hyderabad-4.

72.Nagesh V.Rao, Inspector of Custom, Rajiv Gandhi
International Airport, Begumpet, Hyderabad.

73.Abdul Hafeez, Inspector of Central Excise, Hqrs. Office,
Statistics Section, Hyderabad-I Commissionerate, Kendriya
Shulk Bhavan, L.B.Stadium Road Basheerbagh, Hyderabad

74.B.Paneswera Rao, Inspector of Central Excise, Office of the
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Shamshabad, Ranga Reddy District

75.G.Arun Kumar, Inspector of Central Excise, Hqrs. Office,
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Shulk Bhavan, L.B.Stadium Road, Basheerbagh,
Hyderabad-4

76.K.Raja Kishore, Superintendent of Central Excise, Hqrs.
Office, 9/86-A, C.R. Building,West Church
Compound,Amaravati Nagar, Tirupathi-517 502.

77.Sri Hari Kishen Rao, Superintendent of Central Excise,
Chitkul Range, Vivekananda Nagar Colony, Kukatpally,

Hyderabad-500 072

78.Sudarshan Wellington, Superintendent of Central Excise,
Jeedimetla-II Range, Plot No. 240,k Opp: Hanuman Temple,
Chinna Thokatta, New Bowenpally, Secunderabad-500 011.

79.J.Jayaraj, Inspector of Central Excise, O/o the
Superintendent of Central Excise, Bollarum-I Range,
Opp.: ICICI Bank , Kkukatpally Housing Board,
Hyderabad –500 072

80.K.Kusa Kumar, Superintendent of Central Excise,Hqrs.
Office, Hyderabad -II Commissionerate, Kendriya Shulk
Bhavan, L.B.Stadium Road,Basheerbagh, Hyderabad-4.

81.P.Vasudeva Rao, Superintendent of Central Excise,
Divisional Office, 10-530, L.V. Ramana Reddy Buildings,
Santhapat, Nellore-524 001.

82.Ch.Rambabu, Inspector of Central Excise, Division-M,
Plot No.240, Opp: Hanuman Temple, Chinna Thokatta,
New Bowenpally, Secunderabad-500 011.

83.D.Srirama Sastry, Inspector of Central Excise,
O/o the Superintendent of Central Excise, Sanath Nagar
Range, Posnett Bhavan, Ramkote, Hyderabad-1.

84.A.S.Prabhakar Rao , Inspector of Central Excise
O/o Superintendent of Central Excise, Ameerpet Range,
Tilak Road, Posnett Bhavan, Ramkote, Hyderabad-1.

85.K. Raji Reddy, Superintendent of Central Excise, O/o the
Asst. Commissioner of Central Excise, Division-V,
Venkateswera Shopping Complex, Dwaraka Nagar,
Visakhapatnam-530 035.

86.E. Rajamouli, Superintendent of Central Excise, CIU Section,

Head Quarters Office, 9/86-A, C.R. Buildings, Church Compound, Amravati Nagar, TPT – 517 502.

87.K.Yugandhar, Inspector of Central Excise, Hqrs. Office, Adjudication Section, Hyderbad-I Commissionerate, Kendriya Shulk Bhavan, L.B.Stadium Road, Basheerbagh, Hyderabad-4

88.B.G.Madhav Reddy, Inspector of Central Excise, Hqrs. Office, Selective Audit, Hyderabad-1 Commissionerate, Kendriya Shulk Bhavan, L.B.Stadium Road, Basheerbagh, Hyderabad-4

89.P.V.Ratnakara Rao, Inspector of Central Excise, O/o the Superintendent of Central Excise, Kattedan Range, Tilak Road, Posnett Bhavan, Ramkote, Hyderabad-1.

90.M.Vijaykumar, Inspector of Central Excise, Hqrs. Office, Anti-Evasion Section, Hyderabad-III Commissionerate, Kendriya Shulk Bhavan, L.B.Stadium Road, Basheerbagh, Hyderabad –4.

91.T.Kaladhara Raju, Inspector of Central Excise, Office of the Superintendent of Central Excise, Kothur-I Range, Shamshabad, Ranga Reddy District

92.S.S.Rajurkar, Inspector of Central Excise, Service Tax, Hyderabad-'D' Division,Divisional Office, CLS Building, Nampally Station Road, Hyderabad.

93.S.Hanuma Prasad, Intelligence Officer, Directorate of Revenue Intelligence, D.No. 8-2-686/16/1/A, Plot No.499, Road No.12 Banjara Hills, Hyderabad –34

94.T.Anand Mohan, Inspector of Central Excise, Office of the Superintendent of Central Excise,

Kothur-I Range, Shamshabad, Ranga Reddy District.

95.Y.Satyanarayana Murthy, Inspector of Central Excise, Preventive Unit, Hyderabad-‘G’ Division, CLS Building, Nampally Station Road, Hyderabad.

96.P.Rajendra Prasad, Inspector of Central Excise, Hqrs. Office, Adjudication Section, Hyderabad-II Commissionerate, Kendriya Shulk Bhavan, L.B.Stadium Road, Basheerbagh, Hyderabad-4.

97.D.Malleswar, Inspector of Central Excise, Division-G, O/o the Asst. Commissioner of Central Excise, Street No.4, Habsiguda, Hyderabad.

98.B.Manohar, Inspector of Central Excise, O/o the Superintendent of Central Excise, Charminar-I Range, Tilak Road, Posnett Bhavan, Ramkote, Hyderabad.

99.M.A.Qader, Inspector of Central Excise, Hyderabad ‘F' Division, Divisional Office, CLS Building, Nampally, Station Road, Hyderabad.

100.M.Koteswera Rao, Superintendent of Central Excise, Technical Section, Hqrs. Office, Port Area, Visakhapatnam-II Commissionerate, Visakhapatnam-530 035.

101.Sayed Ahmed, Inspector of Central Excise, Nirmal Range, Indira Nagar, Post Office Building, Adilabad.

102.E.D.Sarovoram, Inspector of Central Excise, O/o the Superintendent of Central Excise, Ameerpet Range, Tilak Road, Posnett Bhavan, Hyderabad-1.

103.N.Prakash Rao, Superintendent of Central Excise, O/o the Assistant Commissioner of Central Excise, Divisional Office, Kurnool.

104.T.Vivekananda, Superintendent of Central Excise, O/o the Assistant Commissioner of Central Excise, Divisional Office, Eluru Division, Near Control Room, Narasimharaopet, Eluru.

105.P.N.V.Prasad, Inspector of Customs, Rajiv Gandhi International Air Port, Begumpet, Hyderabad.

106.D.Chandraskehar Rao, Inspector of Customs, Rajiv Gandhi International Air Prot, Begumpet, Hyderabad.

107.S.Gopalkrishna Murthy, Inspector of Central Excise, Divisional Office, Vijayawada Division, C.R. Buildings, Bandar Road, Vijayawada-500 002.

108.Md. Mustafa Ali, Inspector of Central Excise, Hqrs. Office, C.R. Buildings, Kannavari Thota, Guntur-522 004.

109.Md.Suleman, Inspector of Central Excise, Legal Section, Hyderabad-IV Commissionerate, Tilak Road, Posnett Bhavan, Ramkote, Hyderabad-1.

110.P.Koteswera Rao, Inspector of Central Excise Divisional Office, Vijayawada Division, C.R. Buildings, Bandar Road, Vijayawada-520 002.

111.T.V.R.Sambasadasiva Rao, Inspector of Central Excise, Hyderabad-B Division, Opp.ICICI Bank, Kukatpally Housing Board, Hyderabad –500 072

112.K. Raji Reddy, Superintendent of Central Excise, O/o the Asst. Commissioner of CentralExcise, Division-V, Venkateswera Shopping Complex, Dwaraka Nagar, Visakhapatnam-530 035.

113.E.Rajamouli, Superintendent of Central Excise, CIU Section, Head Quarters Office, 9/86-A, C.R. Buildings,

Church Compound, Amaravati Nagar, Tirupati-517 502.

114.S.Kameshwera Rao , Inspector of Central Excise, O/o the

Asst. Commissioner of Central Excise, Vizianagaram

Division, 1st Lane, Kothaagraharam, Vizianagaram.

115.Ch.Venkata Rao, Inspector of Central Excise, O/o the

Superintendent of Central Excise, Palasa Range,

Palasa, Srikakulam District.

116.P. Ravindranath, Superintendent of Central Excise,

Audit Section, Hqrs. Office, Port Area, Visakhapatnam

Commissionerate, Visakhapatnam - 530 035.

117.K. Peterpaul Singh, Superintendent of Central

Excise, Audit Section, Hqrs. Office, Port Area,

Visakhapatnam Commissionerate,

Visakhapatnam - 530 035.

118.Ch. Prakash Raju, Superintendent of Central Excise, Audit

Section, Hqrs. Office, Port Area, Visakhapatnam

Commissionerate, Visakhapatnam - 530 035.

119.Ch. Prakasah Raju, Superintendent of Central Excise,

Audit Section, Hqrs. Office, Port Area,Visakhapatnam

Commissionerate, Visakhapatnam - 530 035.

120.G.S. Satyanarayana, Inspector of Central Excise,

Technical Section, Division-'C' Posnett Bhavan,
Ramkoti, Hyderabad.

121.V. Sudhakar, Superintendent of Central Excise,

O/o. The Asst. Commissioner of Customs & Central Excise,
Division Office, Kurnool Division, N.R.Pet, Kurnool.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of certiorari by calling for the records of the Central Administrative Tribunal, Hyderabad Bench in O.A.Nos. 938 of 2002 and batch dated 29.12.2003 and quash the said orders.

Counsel for the Petitioners: MR.B.ADINARAYANA RAO

Counsel for the Respondent No1 to 4.: MR.A.RAJASHEKAR REDDY

(ASSISTANT SG)

Counsel for the Respondent Nos.118 & 119 : MR. M. KESAVA RAO

Counsel for the Respondent Nos.3, 7,12, 17,21,22 : MR.P. NAVEEN RAO

Counsel for the Respondent No.87 to 102: MR. B.G. RAVINDRA REDDY

Counsel for the Respondent Nos. 6, 8 to 11,

13 to 16, 18 to 20, 23 to 86, 103 to 117, 120 & 121: None appeared

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WRIT PETITION NO : 12970 of 2004

Between:

K.Satish S/o K. Subramanyam, aged 35 years,

R/o 18-3-56/C, Khadi Colony, Tirupathi

..... PETITIONER

AND

1.The Chief Commissioner of Customs & Central Excise,

Hyderabad Zone, Kendriya Shulk Bhavan,L.B.Stadium

Road, Basheerbagh, Hyderabad-500004

2.The Commissioner of Customs & Centre Excise Hyderabad II Commissionerate, Kendriya Shulk Bhavan L.B.Stadium Road, Basheerbagh, Hyderabad-500004

3.The Government of India , Rep. by its Secretary, Department of Personal and Training, Ministry of Home Affairs, North Block, New Delhi-1100 001

4.S.Rama Rao, Inspector of Central Excise, S/o S.V.Ramana, Inspector of Central Excise, Hyderabad-IV Commissionerate, Posnett Bhavan, Tilak Road, Ramkote, Hyderabad.

5.V.L.N.Srinivas , Inspector of Central Excise, Nizamabad Division, Nizamabad.

6.B.S.Murthy, Inspector of Central Excise, Hyderabad-II Commissionerate, Kendriya Shulk Bhavan, Hyderabad -4

7.A.Hari Gopal, Inspector of Central Excise, Cherlapalli-III Range, Street No.4, Habsiguda, Hyderabad-500 007.

8.K.L.S.Kishore Babu, Inspector of Central Excise, Hyderabad-IV Commissionerate, Posnett Bhavan, Tilak Road, Ramkote, Hyderabad.

9.M.Srinivas Rao , Inspector of Central Excise , Hqrs office Jeedimetla-I Range, Opp: Hanuman Temple, New Bowenpally, China Thokatta, Secunderabad-3.

10.K.Sudhakar, Inspector of Central Excise, Division-B, K.P.H.B. Hyderabad-72.

11.D.Swamiji Rao, Inspector of Central Excise, Jeedimetla-I Range, Opp: Hanuman Temple, New Bowenpally, China Thokatta, Secunderabad-3..

12.Ch.V.Dhanujaya Rao, Inspector of Central Excise, Preventive Wing, Division-“IX” Posnett Bhavan, Tilak Road, Ramkote, Hyderabad.

13.G.Subash Chandra Bose, Inspector of Central Excise, Nampally Range, Posnett Bhavan, Tilak Road, Ramkote, Hyderabad.

14.M.Sambasiva Rao, Inspector of Central Excise, Range-III, Vijayawada, Vijayawada Division, C.R.Buildings, Bandar Road, Vijayawada-2.

15.V.B.G.Tilak, Inspector of Central Excise, Preventive Wing, Vijayawada, Vijayawada Division, C.R. Buildings, Bandar Road, Vijayawada -2

16.Y.Srirama Chandra Murthy, U.B. Unit, Air Cargo Complex, Begumpet, Hyderabad

17.A.Vijaya Lakshmi, Superintendent of Central Excise, Division-N, Opp.Hanuman Temple, New Bowenpalli, China Thokatta, Secunderabad -3

18.T.Ramamohana Rao, Inspector of Central Excise, Division-K, Bowenpally Cross Roads, New Bowenpally, Secunderabad-3.

19.P.M.V.Kusuma Kumari, Inspector of Central Excise
Ditchpally Sector,Ditchpally, Nizamabad.

20.K.V.Lakshmi, Inspector of Central Excise, Cantonment Range, Opp: Hanuman Temple, New Bowenpally, China Thokatta, Secunderabad-3.

21.S.Chellammal, Inspector of Central Excise, Customs Preventive Unit, Hyderabad-II commissionerate, Kendriya Shulk Bhavan L.B.Stadium Road, Basheerbagh, Hyderabad-500 004.

22.S.Badarinath, Inspector of Central Excise, Selective

Audit, Hyderabad-II Commissionerate, Kendriya Shulk

Bhavan L.B.Stadium Road, Basheerbagh,

Hyderabad-500 004.

23.L.Janakiramaiah , Inspector of Central Excise,

Divisional Office, Vijayawada Division, C.R.Buildings,

Bandar Road, Vijayawada-2.

24.A.Visweswera Rao, Inspector of Central Excise ,C.R.

Buildings, Vijayawada.

25.D.Usha Rani, Inspector of Central Excise, Divisional

Office, Vijayawada Division, C.R.Building, Bandar Raod,

Vijayawada-2

26.C.V.Subramanyam , Inpsector of Central Excise ,

Opp.Hanuman Temple, New Bowenpalli, China Thokatta,

Secunderabad -3

27.K.Subramanya Sarma, Inspector of Central Excise,

Adjudication Section, Hyderabad-IV, Commissionerate,

Posnett Bhavan, Tilak Road, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to suspend the operation of the Order dated: 29.12.2003 made in O.A.No. 938 of 2002 and Batch and consequential reviiew Orders Nos. 17 of 2004 and batch, dated: 25.04.2004 by the Honourable Central Administrative Tribunal, Hyderabad Bench, Hyderabad, pending disposal of the above writ petition.

Counsel for the Petitioners: MS.G.SUDHA

Counsel for the Respondent Nos.1 to 3: MR.A.RAJASHEKAR REDDY

(ASSISTANT SG)

Counsel for the Respondent Nos.4 to 27: MR. P. NAVEEN RAO

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WRIT PETITION NO : 21863 of 2004

Between:

S. Rajendra Kumar Reddy, S/o. S. Ramchandra Reddy, aged 35 years, R/o. 4th Floor, Thakai Towers, R.F. Road, Ananthapur.

..... PETITIONER

AND

1.The Chief Commissioner of Customs & Central Excise,

Hyderabad Zone, Kendriya Shulk Bhavan,L.B.Stadium

Road, Basheerbagh, Hyderabad-500004

2.The Commissioner of Customs & Centre Excise Hyderabad II

Commissionerate, Kendriya Shulk Bhavan L.B.Stadium

Road, Basheerbagh, Hyderabad-500004

3.The Government of India , Rep. by its Secretary, Department

of Personal and Training, Ministry of Home Affairs, North

Block, New Delhi-1100 001

4.S.Rama Rao, Inspector of Central Excise, S/o S.V.Ramana,

Inspector of Central Excise, Hyderabad-IV Commissionerate,

Posnett Bhavan, Tilak Road, Ramkote, Hyderabad.

5.V.L.N.Srinivas , Inspector of Central Excise, Nizamabad

Division, Nizamabad.

6.B.S.Murthy, Inspector of Central Excise, Hyderabad-II

Commissionerate, Kendriya Shulk Bhavan, Hyderabad -4

7.A.Hari Gopal, Inspector of Central Excise, Cherlapalli-III Range, Street No.4, Habsiguda, Hyderabad-500 007.

8.K.L.S.Kishore Babu, Inspector of Central Excise, Hyderabad-IV Commissionerate, Posnett Bhavan, Tilak Road, Ramkote, Hyderabad.

9.M.Srinivas Rao , Inspector of Central Excise , Hqrs office Jeedimetla-I Range, Opp: Hanuman Temple, New Bowenpally, China Thokatta, Secunderabad-3.

10.K.Sudhakar, Inspector of Central Excise, Division-B, K.P.H.B. Hyderabad-72.

11.D.Swamiji Rao, Inspector of Central Excise, Jeedimetla-I Range, Opp: Hanuman Temple, New Bowenpally, China Thokatta, Secunderabad-3..

12.Ch.V.Dhanujaya Rao, Inspector of Central Excise, Preventive Wing, Division-"IX" Posnett Bhavan, Tilak Road, Ramkote, Hyderabad.

13.G.Subash Chandra Bose, Inspector of Central Excise, Nampally Range, Posnett Bhavan, Tilak Road, Ramkote, Hyderabad.

14.M.Sambasiva Rao, Inspector of Central Excise, Range-III, Vijayawada, Vijayawada Division, C.R.Buildings, Bandar Road, Vijayawada-2.

15.V.B.G.Tilak, Inspector of Central Excise, Preventive Wing, Vijayawada, Vijayawada Division, C.R. Buildings, Bandar Road, Vijayawada -2

16.Y.Srirama Chandra Murthy, U.B. Unit, Air Cargo Complex,

Begumpet, Hyderabad

17.A.Vijaya Lakshmi, Superintendent of Central Excise,

Division-N, Opp.Hanuman Temple, New Bowenpalli,

China Thokatta, Secunderabad -3

18.T.Ramamohana Rao, Inspector of Central Excise, Division-K,

Bowenpally Cross Roads, New Bowenpally, Secunderabad-3.

19.P.M.V.Kusuma Kumari, Inspector of Central Excise
Ditchpally Sector,Ditchpally, Nizamabad.

20.K.V.Lakshmi, Inspector of Central Excise, Cantonment

Range, Opp: Hanuman Temple, New Bowenpally, China

Thokatta, Secunderabad-3.

21.S.Chellammal, Inspector of Central Excise, Customs

Preventive Unit, Hyderabad-II commissionerate, Kendriya

Shulk Bhavan L.B.Stadium Road, Basheerbagh,

Hyderabad-500 004.

22.S.Badarinath, Inspector of Central Excise, Selective

Audit, Hyderabad-II Commissionerate, Kendriya Shulk

Bhavan L.B.Stadium Road, Basheerbagh,

Hyderabad-500 004.

23.L.Janakiramaiah , Inspector of Central Excise,

Divisional Office, Vijayawada Division, C.R.Buildings,

Bandar Road, Vijayawada-2.

24.A.Visweswera Rao, Inspector of Central Excise ,C.R.

Buildings, Vijayawada-2

25.D.Usha Rani, Inspector of Central Excise, Divisional

Office, Vijayawada Division, C.R.Building, Bandar Raod,

Vijayawada-2

26.C.V.Subramanyam , Inpsector of Central Excise ,

Opp.Hanuman Temple, New Bowenpalli, China Thokatta,

Secunderabad -3

27.K.Subramanya Sarma, Inspector of Central Excise,

Adjudication Section, Hyderabad-IV, Commissionerate,

Posnett Bhavan, Tilak Road, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ, order or direction more particularly one in the nature of writ of certiorari calling for the records relating to the Common Order dated: 29.12.2003 in O.A.NO. 938 of 2002 & Batch and consequential review Order Nos. 17 of 2004 & batch, dated: 26.4.2004 by the Honourable Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash the same.

Counsel for the Petitioner: MS.G.SUDHA

Counsel for the Respondent Nos. 1 to 3: MR.A.RAJASHEKAR REDDY

(ASSISTANT SG)

Counsel for the Respondent Nos. 4 to 27: None appeared.

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WRIT PETITION NO : 1834 of 2005

Between:

1.The Secretary, Rep. by Union of India, Ministry of Finance

and Company Department of Revenue, 152, CBEC,

Computer Center & Project Office, North Block, New Delhi.

2.The Chairman, Central Board of Excise and Customs, North

Block, New Delhi.

3.Member (P & V), Central Board of Excise and Customs,

Government of India, Ministry of Finance Department of

Revenue North Block, New Delhi.

4.The Chief Commissioner of Customs and Central Excise, L.B.

Stadium Road, Basheer Bagh, Hyderabad - II.

5.The Commissioner of Customs and Central Excise,

Hyderabad- II Commissionerate, L.B. Stadium Road,
Basheer Bagh, Hyderabad - 11.

6.The Commissioner of Customs and Central Excise,

Hyderabad- III Commissionerate, L.B. Stadium Road,
Basheer Bagh, Hyderabad - 11.

..... PETITIONERS

AND

A.S. Prabhakar Rao, Inspector of C. Excise, Ameerpet Range, 5th Floor, CLS Buildings, Station Road, Nampally, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction, calling for the records pertaining to O.A.No. 1017 of 2002 dated 29-12-2003 on the file of the Honourable Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash the extent of the order as prayed for as illegal, contrary, contrary to law and unconstitutional and declare the same as void abinitio, null and void and nonest in the eye of law.

Counsel for the Petitioners: MR.A.RAJASHEKAR REDDY

(ASSISTANT SG)

Counsel for the Respondent : None appeared.

WRIT PETITION NO : 1836 of 2005

Between:

1.The Secretary, Rep. by Union of India, Ministry of Finance

and Company Department of Revenue, 152, CBEC,

Computer Center & Project Office, North Block, New Delhi.

2.The Chairman, Central Board of Excise and Customs, North

Block, New Delhi.

3.Member (P & V), Central Board of Excise and Customs,

Government of India, Ministry of Finance Department of

Revenue North Block, New Delhi.

4.The Chief Commissioner of Customs and Central Excise, L.B.

Stadium Road, Basheer Bagh, Hyderabad - 11.

5.The Commissioner of Customs and Central Excise,

Hyderabad- II Commissionerate, L.B. Stadium Road,
Basheer Bagh, Hyderabad - 11.

6.The Commissioner of Customs and Central Excise,

Hyderabad- III Commissionerate, L.B. Stadium Road,
Basheer Bagh, Hyderabad - 11.

..... PETITIONERS

AND

1.Sri Hari Kishan Rao, Superintendent of C. Excise, Chitkul

Range, Vivekananda Nagar Colony, Kukatpally,

Hyderabad - 500 072.

2.Sudershan Willington, Superintendent of C. Excise,

Jeedimetla-II Range, Opp: Hanuman Temple,

Chinnathokatta, New Bowenpally, Secunderabad-11.

3.J. Jayaraj, Inspector of C. Excise, Bollarum -I Range,
Opp: ICICI Bank, KPHB,Hyderabad-4.

4.K. Kusa Kumar, Superintendent of C. Excise, Audit Section,

V Floor, Hyderabad-II Commnrte, Shulk Bhavan,

Basheerbagh, Hyderabad-4.

5.P. Vasudev Rao, Superintendent of C. Excise, Divisional

Office, 10-530, L.V. Ramana Reddy Buildings, Santhapet,

Nellore - 524 001.

6.Ch. Rambabu, Inspector of C. Excise, Division-M,
Opp: Hanuman Temple, Chinna Thokatta, New Bowenpally,

Secunderabad - 500 011.

7.D. SriRama Sastry, Inspector of C. Excise,O/o the

Superintendent of C. Excise, Sanathnagar-I Range, Posnett

Bhavan, Ramkoti, Hyderabad-1.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari, or any other appropriate writ, order or direction, calling for the records pertaining to O.A.No. 994 of 2002 and batch dated 29-12-2003 on the file of the Hon'ble Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash the extent of the order as prayed for as illegal, arbitrary, contrary to law and unconstitutional and declare the same as void abinitio, null and void and nonest in the eye of law.

Counsel for the Petitioners: MR.A.RAJASHEKAR REDDY

(ASSISTANT SG)

Counsel for the Respondent Nos: None appeared.

WRIT PETITION NO : 1838 of 2005

Between:

1.The Secretary, Rep. by Union of India, Ministry of Finance

and Company Department of Revenue, 152, CBEC,

Computer Center & Project Office, North Block, New Delhi.

2.The Chairman, Central Board of Excise and Customs, North

Block, New Delhi.

3.Member (P & V), Central Board of Excise and Customs,

Government of India, Ministry of Finance Department of

Revenue North Block, New Delhi.

4.The Chief Commissioner of Customs and Central Excise, L.B.

Stadium Road, Basheer Bagh, Hyderabad - 11.

5.The Commissioner of Customs and Central Excise,

Hyderabad- II Commissionerate, L.B. Stadium Road,
Basheer Bagh, Hyderabad - 11.

6.The Commissioner of Customs and Central Excise,

Hyderabad- III Commissionerate, L.B. Stadium Road,
Basheer Bagh, Hyderabad - 11.

..... PETITIONERS

AND

1.K.Yugandhar, Inspector of C.Excise, Adjudication Section,

Hyd-I, Commnrte, III Floor, Shulk Bhavan, Basheerbagh,
Hyderabad-4.

2.B.G.Madhav Reddy, Inspector of C.Excise, Selective Audit,

Hyd-I, Commnrte, II Floor, Shulk Bhavan,Basheerbagh,

Hyderabad-4.

3.P.V.Ratnakar Rao, Inspector of C.Excise, o/o the

Superintendent of C.Excise,Kattedan Range, I Floor,

Posnett Bhavan, Ramkoti, Hyderabad-1.

4.M.Vijay Kumar, Inspector of C.Excise, Anti-Evasion Wing,

Hyderabad-III Commnrte, IV Floor, Shulk Bhavan,

Basheerbagh,Hyderabad-4.

5.T.Kaladhara Raju, Inspector of C.Excise, o/o the Supdt. of

C.Excise, Kothur-I Range, Shamshabad, R.R.District.

6.S.S.Rajurkar, Inspector of C.Excise, o/o the Asst. Commissioner of C.Excise, Hyd-D Division, CLS Buildings, Nampally Station Road, Hyderabad.

7.S.Hanuma Prasad, Inspector of C.Excise, Intelligence Officer, DRI, D.No.8-2-686/16/1/A, Plot No.499, Road No.12, B.Hills, Hyderabad-34.

8.T.Anand Mohan, Inspector of C.Excise, o/o the Superintendent of C.Excise,Kothur-I Range, Shamshabad, R.R.District.

9.Y.Satyanarayana Murthy, Inspector of C.Excise, P&I Wing, Hyderabad-G.Divn.CLS Buildings,Nampally Station Road, Hyderabad.

10.P.Rajendra Prasad, Inspector of C.Excise, Adjudication Section, Hyderabad-II, VI Floor, Shulk Bhavan, Basheerbagh, Hyderabad.

11.D.Malleswar, Inspector of C.Excise, O/o the Asst. Commissioner of C.Excise, Hyd-G Divn.CLS Buildings, Station Road, Nampally, Hyderabad.

12.B.Manohar, Inspector of C.Excise, O/o the Superintendent of C.Excise, Charminar-I Range, I Floor, Posnettbhavan, Ramkoti, Hyderabad-1.

13.M.A.Quader, Inspector of C.Excise, o/o the Asst. Commissioner of C.Excise, Hyd-F Division, CLS Buildings, Nampally Station Road, Hyderabad.

14.M.Koteswara Rao, Superintendent of C.Excise, O/o the Commissioner of C.Excise,Visakhapatnam-II Commissionerate, Port Area, Vizag-35.

15.Sayed Ahmed, Inspector of C.Excise, Nirmal Range, Indra Nagar, Post Office Building, Adilabad.

16.E.D.Sarovaram, Inspector of C.Excise, o/o the

Superintendent of C.Excise, Ameerpet Range,
V Floor, CLS Buildings, Station Road, Nampally, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to to issue a writ of certiorari, or any other appropriate writ, order or direction, calling for the records pertaining to O.A.No.1021 of 2002 dated 29-12-2003 on the file of the Hon'ble Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash the extent of the order as prayed for as illegal, arbitrary, contrary to law and unconstitutional and declare the same as void abinitio, null and void and nonest in the eye of law.

Counsel for the Petitioner:MR.KOTI REDDY IDAMAKANTI

Counsel for the Respondents : MR.B.G.RAVINDRA REDDY

WRIT PETITION NO : 1858 of 2005

Between:

1.The Secrtary, rep by Union of India, Ministry of Finance

and Company Affairs Departmetn of Revenue 152, CBEC

Computer Center & Project Office, North Bloth, New Delhi

2.The Chairman, Central Board of Excise and Customs,

North Block, New Delhi

3.Member (P & V), Central Board of Excise and Customs,

Government of India, Ministry of Finance Department of

Revenue North Block, New Delhi.

4.The Chief Commissioner of Customs and Central Excise, L.B.

Stadium Road, Basheer Bagh, Hyderabad - 11.

5.The Commissioner of Customs and Central Excise,

Hyderabad- II Commissionerate, L.B. Stadium Road,
Basheer Bagh, Hyderabad - 11.

6.The Commissioner of Customs and Central Excise,

Hyderabad- III Commissionerate, L.B. Stadium Road,
Basheer Bagh, Hyderabad - 11.

..... PETITIONERS

AND

S. Kameswara Rao Inspector of C. Excise O/o the Asst. Commissioner of Customs, Rajiv Gandhi International Airport, Begumpet, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari or any other appropriate Writ, order or direction, calling for the records pertaining to O.A. No. 1050 of 2002 and batch dated 29-12-2003 on the file of the Hon'ble Central Administrative Tribunal, Hyderabad Bench Hyderabad and quash the extent of the order as prayed for as illegal, arbitary contrary to law and unconstitutional and declare the same as void abinitio, null and void and nonest in the eye of law.

Counsel for the Petitioners:MR.A.RAJASHEKAR REDDY

(ASSISTANT SG)

Counsel for the Respondent : None appeared.

WRIT PETITION NO : 1861 of 2005

Between:

1.The Secrtary, rep by Union of India, Ministry of Finance

and Company Affairs Departmetn of Revenue 152, CBEC

Computer Center & Project Office, North Bloth, New Delhi

2.The Chairman, Central Board of Excise and Customs,

North Block, New Delhi

3.Member (P & V), Central Board of Excise and Customs,

Government of India, Ministry of Finance Department of

Revenue North Block, New Delhi.

4.The Chief Commissioner of Customs and Central Excise, L.B.

Stadium Road, Basheer Bagh, Hyderabad - 11.

5.The Commissioner of Customs and Central Excise,

Hyderabad- II Commissionerate, L.B. Stadium Road,
Basheer Bagh, Hyderabad - 11.

6.The Commissioner of Customs and Central Excise,

Hyderabad- III Commissionerate, L.B. Stadium Road,
Basheer Bagh, Hyderabad - 11.

..... PETITIONERS

AND

1.P. Ravindranath, Superintendent of C.Excise, O/o. the Asst.

Commissioner of C.Excise, Hyd-K Division, Opp. Hanuman

Temple, Chinnathokatta, New Bowenpally, Secunderabad.

2.K. Peterpaul Singh, Superintendent of C. Excise, Kompally

Range, Opp. Hanuman Temple,Chinnathokatta, New

Bowenpally, Sec-Bad.

3.Ch. Prakash Raju, Superintendent of C. Excise, O/o. The

Commissioner of Customs and Central Excise, Vizag-I

Commissionerate, Vizag.
.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari, or any other appropriate writ, order or direction, calling for

the records pertaining to O.A.No.990 of 2002 and batch dt. 29.12.2003 on the file of the Hon'ble Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash the extent of the order as prayed for as illegal, arbitrary, contrary to law and unconstitutional and declare the same as void *ab initio*, null and void and nonest in the eye of law.

Counsel for the Petitioner: MR.A.RAJASHEKAR REDDY

(ASSISTANT SG)

Counsel for the Respondent Nos: None appeared.

WRIT PETITION NO : 2011 of 2005

Between:

1.The Chief Commissioner of Customs and Central Excise, L.B.

Stadium Road, Basheer Bagh, Hyderabad - 11.

2.The Commissioner of Customs and Central Excise,

Hyderabad- II Commissionerate, L.B. Stadium Road,
Basheer Bagh, Hyderabad - 11.

3.The Commissioner of Customs and Central Excise,

Hyderabad- III Commissionerate, L.B. Stadium Road,
Basheer Bagh, Hyderabad - 11.

4.The Secrtary, rep by Union of India, Department of

Personnel & Training, Ministry of Home Affairs, North Block,

New Delhi

..... PETITIONERS

AND

1.S.Rama Rao, Inspector of Central Excise, Ghatkesar Rage,

Street No.4, Habsiguda, Hyderabad-7

2.V.L.N.Srinivas, Inspector of Central Excise, O/o the

Commissioner and Central Excise, Hyderabad-III, Tech.

Section, Basheerbagh, Hyderabad

3.B.S.Murthy, Inspector of Central Excise, O/o the
Commissioner of Customs and Central Excise, Hyderabad-II
Commissionerate, CIU Section, VII Floor, Kendriya Shulk
Bhavan, Basheer Bagh, Hyderabad.

4.A.Hara Gopal, Inspector of Central Excise, O/o the
Superintendent of Central Excise, Cherlapalli-III,
Street No.4, Habsiguda, Hyderabad-7.

5.K.S.L.Kishore Babu, Inspector of Central Excise, O/o the
Superintendent of Central Excise, Kukatpally-II
Aswani Hair Oil Building, Moosapet, Hyderabad.

6.M.Srinivas Rao , Inspector of Central Excise, O/o the
Commissioner of Customs and Central Excise, Hyderabad-I
Commissionerate, K.S.Bhavan, Basheerbagh.

7.K.Sudhakar, Inspector of Central Excise, O/o the
Commissioner of Customs & Central Excise, Hyderabad-III
Commissionerate, K.S.Bhavan, Basheerbagh.

8.B.Swamiji Rao, Inspector of Central Excise, O/o the Dy.
Commissioner of Central Excise,Hyderabad-J Divn. CLS Bldgs,
Nampally, Hyderabad.

9.Ch.V.Dhanujaya Rao, Inspector of Central Excise, O/o the
Superintendent of Customs & Central Excise, Azamabad-II
Range,C/o VST Industries, Hyderabad

10.G.Subash Chandra Bose, Inspector of Central Excise,
O/o the Superintendent of Central Excise,
Bollarum-II, Opp.ICICI Bank, K.P.H.B., Hyderabad-72.

11.M.Sambasiva Rao, Inspector of Central Excise, O/o the Dy.
Commissioner of Central Excise, Vijayawada Division,

C.R.Buildings, Bandar Road, Vijayawada.

12.G.V.B.G.Tilak, Inspector of Central Excise, Range-I,

C.R. Buildings, Bandar Road, Vijayawada -2

13.Y.Srirama Chandra Murthy, Inspector of Central Excise,

O/o the Commissioner of Customs & Central Excise,

Anti-evasion Wing, IV Floor Basheerbagh, Hyderabad

14.A.Vijaya Lakshmi, Superintendent of Central Excise,

O/o the Dy. Commissioner ofCustoms & Central Excise,

Division-N, opp.Hanuman Temple, China Thokatta,

New Bowenpalli,Secunderabad -3

15.T.Ramamohana Rao, Inspector of Central Excise, O/o

the Superintendent of Central Excise,Kukatpally-I, Aswani

Homeo Hair Oil Building, Moosapet, Hyderabad

16.P.M.V.Kusuma Kumari, Inspector of Central Excise
O/o the Superintendent of Central Excise, Mallapur Range,

Street No.4, Habsiguda, Hyderabad.

17.K.V.Lakshmi, Inspector of Central Excise, O/o the

Commissioner of Customs and Central Excise,Hyderabad -II

Commissionerate, Customs (Tech), VI Floor, Kendriya Shulk

Bhavan, Basheerbagh, Hyderabad.

18.S.Chellamal, Inspector of Central Excise, O/o the

Commissioner of Customs and Central Excise,

Hyderabad-II commissionerate, SIIB, VI Floor,

Kendriya Shulk Bhavan,Basheerbagh, Hyderabad-4

19.S.Badarinath, Inspector of Central Excise, O/o the

Commissioner of Customs and Central Excise,

Hyderabad-II Commissionerate.

20.L.Janakiramaiah , Inspector of Central Excise, O/o the Dy.

Commissioner of Central Excise, Vijayawada Divn. C.R.

Bldgs. Bandar Road, Vijayawada.

21.A.Visweswara Rao, Inspector of Central Excise , O/o the Dy.

Commissioner of Central Excise, Vijayawada Division,

C.R. Buildings, Bandar Road, Vijayawada.

22.D.Usha Rani, Inspector of Central Excise, O/o the

Superintendent of Central Excise, Range-IV

C.R.Buildings, Bandar Raod, Vijayawada.

23.C.V.Subramanyam, Inpsector of Central Excise , O/o the Dy.

Commissioner of Customs & Central Excise, Division-N,

Opp.Hanuman Temple, China Thokatta, New Bowenpalli,

Secunderabad -3

24.K.Subramanya Sarma, Inspector of Central Excise, O/o the

Commissioner of Customs and Central Excise, Hyderabad-IV,

Commissionerate, Adjudication Section, Posnett Bhavan,

Ramkote, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari, or any other appropriate writ, order or direction, calling for the records pertaining to O.A.No. 938 of 2002 and batch dated 29-12-2003 on the file of the Hon'ble Central Administrative Tribunal, Hyderbad Bench, Hyderbad and quash the extent of the order as prayed for as ilelgal, arbitrary, contrary to law and uncontitutional and declare the same as void abinitio, null and void and nonest in the eye of law.

Counsel for the Petitioner:MR.A.RAJASHEKAR REDDY (ASSISTANT SG)

Counsel for the Respondents: MR.P.NAVEEN RAO

WRIT PETITION NO : 1348 of 2005

Between:

S. Hanumaprasad, S/o. S. Somayajulu, Age 42 years,

Intelligence Officer, Office of the Deputy Director,

Directorate of Revenue Intelligence, Regional Unit,

Plot No. 499, H.No. 8-2-686/16/1/A, Road No.12,

Banjara Hills, Hyderabad - 500 034.

..... PETITIONER

AND

1.The Chief Commissioner of Central Excise, Customs & Central

Excise, Lal Bahadur Stadium Road,Basheerbagh, HYDERABAD

2.The Commissionr of Central Excise, Hyderabad-II

Commissionerate, Lal l Bahadur Stadium Road, Basheerbagh,

HYDERABAD.

3.The Commissionr of Central Excise, Hyderabad-III

Commissionerate, Lal l Bahadur Stadium Road, Basheerbagh,

HYDERABAD.

4.Central Board of Excise & Customs, North Block, Central

Secretariat, NEW DELHI (Rep. by its Chairman)

5.Department of Personnel & Trainning, Central Secretariat,

NEW DELHI (Rep. by its Secretary)

6.Shri G.S. Satyanarayana, Inspector of Central Excise,

Hyderabad - 'C' Division,II Floor, Posnett Bhavan, Tilak Road,

HYDERABAD.

7.Shir V. Sudhakar, Superintendent of Central Excise,

Office of the Assistant Commissioenr Central Excise,

KURNOOL.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to

issue a writ, particularly one in the natureof certiorari and quash the order of Hon'ble Central Administrative Tribunal, dated: 29-12-2003 in O.A.No. 938/2002 and batch, to the extent of not declaring Para 5 of O.M.No. 351014/12/806-Estt. (D), Dt. 7-2-1986 of the Department of Personnel & Training, Government of India as illegal and cosnequently to strike down Para 5 of O.M.No. 351014/12/806-Estt. (D), Dt. 7-2-1986 of the Department of Personnel & Training as ilelgal, arbitrary and unconstituional after calling for the records on the file of the Hon'ble Central Administrative Tribunal, Hyderabad.

Counsel for the Petitioner: MR.B.G.RAVINDER REDDY

Counsel for the Respondent Nos.1 to 5: MR.A.RAJASHEKAR REDDY

(ASSISTANT SG)

Counsel for the Respondents No. 6 & 7: None appeared.

WRIT PETITION NO : 18149 of 2004

Between:

H.V.S. Sastry, S/o. H.V. Sastry, aged 37 years,
R/o. Flat No. 101, Sreerama Nivas, Near BJP Office,

Kukatpally, Hyderabad, presently working as Inspector of Central Excise, Bollarum - II Range, Hyderabad.

..... PETITIONER

AND

1.The Chief Commissioner of Customs & Central Excise,

Hyderabad Zone, Kendriya Shulk Bhavan,L.B.Stadium

Road, Basheerbagh, Hyderabad-500004

2.The Commissioner of Customs & Centre Excise Hyderabad II

Commissionerate, Kendriya Shulk Bhavan, L.B.Stadium Road,

Basheerbagh, Hyderabad-500004

3.The Chairman, Central Board of Excise and Customs North Block, New Delhi-110 001

4.The Government of India , Rep. by its Secretary, Department of Personal and Training, Ministry of Home Affairs, North Block, New Delhi-1100 001

5.S.Rama Rao, S/o S.V.Ramana, Inspector of Central Excise, Ghatkesar Rage, Habsiguda Building, Street No.4, Habsiguda Hyderabad.

6.V.L.N.Srinivas , Inspector of Central Excise Hqrs. Office, Central Excise Technical Section, Hyderabad-III Commissionerate, K.S.Bhavan, Bashirbagh, Hyderabad

7.B.S.Murthy, Inspector of Central Excise, CIU, Hyderabad-II Commissionerate, Kendriya Shulk Bhavan, Hyderabad.

8.A.Hari Gopal, Inspector of Central Excise, Cherlapalli-II Range, Street No.4, Habsiguda, Hyderabad.

9.K.L.S.Kishore Babu, Inspector of Central Excise Kukatpally-II Range, Aswani Hair Oil Building, Moosapet, Hyderabad.

10.M.Srinivas Rao , Inspector of Central Excise , Hqrs office Central Excise Technical Section, Hyderabad-I Commissionerate, K.S.Bhavan, Bashirbagh, Hyderabad

11.K.Sudhakar, Inspector of Central Excise, Service Tax Section Hqrs. Office, Hyderabad-III Commissionerate, K.S.Bhavan, Basheerbagh, Hyderabad.

12.D.Swamiji Rao, Inspector of Central Excise, Hyderabad-J Division, CLS Building, Nampally Station Road, Hyderabad.

13.Ch.V.Dhanunjaya Rao, Inspector of Central Excise, Azamabad-II Range, C/o VST Factory, Musheerabad, Hyderabad

14.G.Subash Chandra Bose, Inspector of Central Excise,

Bollarum-II Range, Opp.ICICI Bank, K.P.H.B.,

Hyderabad-72

15.M.Sambasiva Rao, Inspector of Central Excise, Divisional

Office, Vijayawada Division, C.R.Buildings, Bandar Road

Vijayawada.

16.G.V.B.G.Tilak, Inspector of Central Excise, Range-I,

C.R. Buildings, Bandar Road, Vijayawada.

17.Y.Srirama Chandra Murthy, Anti-Evasion Unit, Hyderabad-III

Commissionerate, Hqrs. Office, Bashirbagh, Hyderabad

18.A.Vijaya Lakshmi, Superintendent of Central Excise,

Division-N, Technical Section, opp. Hanuman Temple,

New Bowenpalli, China Thokatta, Secunderabad -3

19.T.Ramamohana Rao, Inspector of Central Excise,

Kukatpally-I Range, Aswani Homeo Hair Oil Building,

Moosapet, Hyderabad

20.P.M.V.Kusuma Kumari, Inspector of Central Excise
O/o the Superintendent of Central Excise, Mallapur Range,

Street No.4, Habsiguda, Hyderabad.

21.K.V.Lakshmi, Inspector of Central Excise, Audit Section,

Hqrs. Office, Hyderabad -I Commissionerate, Basheerbagh,

Hyderabad

22.S.Chellammai, Inspector of Central Excise, SIIB,

Hyderabad-II commissionerate, Kendriya Shulk Bhavan

L.B.Stadium Road, Basheerbagh, Hyderabad

23.S.Badarinath, Inspector of Central Excise, Air Cargo

Complex, Begumpet, Hyderabad

24.L.Janakiramaiah , Inspector of Central Excise, Divisional

Office, Service Tax, Vijayawada Division, C.R.Buildings,

Bandar Raod, Vijayawada.

25.A.Visweswara Rao, Inspector of Central Excise ,Service

Tax, Divisional office, Vijayawada Division, C.R. Buildings,

Bandar Road, Vijayawada.

26.D.Usha Rani, Inspector of Central Excise, Range-IV

Vijayawada, C.R.Buildings, Bandar Raod, Vijayawada.

27.C.V.Subramanyam , Inpsector of Central Excise ,

Division-N, Opp.Hanuman Temple, New Bowenpalli, China

Thokatta, Secunderabad -3

28.K.Subramanya Sarma, Inspector of Central Excise,

Adjudication Section, Hyderabad-IV Commissionerate,

Posnett Bhavan, Tilak Road, Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ in the nature of WRIT OF CERTIORARI or any other appropriate Writ or Writs, Order or Direction, calling for the records relating to the Common Order dt. 29-12-2003 in OA No. 938 of 2002 and Batch and Order dt. 26-4-2004 in RA No. 17 and 18 of 2004 in OA Nos. 938 of 2002 and batch on the file of the Honb'ble Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash the same as illegal and arbitrary, award costs.

Counsel for the Petitioner: MR.N.SRIDHAR REDDY

Counsel for the Respondent Nos.1 to 4: MR.A.RAJASHEKAR REDDY

(ASSISTANT SG)

Counsel for the Respondents no.5 to 27: MR. P. NAVEEN RAO.

WRIT PETITION NO : 6048 of 2005

(WRIT PETITION (SR)NO : 7434 of 2005)

Between:

1.The Chief Commissioner of Customs and Central Excise, L.B. Stadium Road, Basheer Bagh, Hyderabad - II.

2.The Commissioner of Customs and Central Excise, Hyderabad- II Commissionerate, L.B. Stadium Road, Basheer Bagh, Hyderabad - 11.

3.The Commissioner of Customs and Central Excise, Hyderabad- III Commissionerate, L.B. Stadium Road, Basheer Bagh, Hyderabad - 11.

..... PETITIONERS

AND

1.K.V.R.S.N.S.Kumar, Occ: Superintendent of Central Excise, O/o the Commissioner of Customs and Central Excise, Audit Section, Port Area, Visakhapatnam -II Commissionerate, Visakhapatnam – 530 035

2.D.Ramulu, Occu: Superintendent of C. Excise, Division-V, Venkateswara Shopping Complex, Dwaraka Nagar, Visakhapatnam.

3.P.Bhaskar Reddy, Occu: Superintendent of C.Excise, O/o the Commissioner of Customs and C. Excise, Hyderabad-I Commissionerate, Audit Section, Basheerbagh, Hyderabad.

4.P.Nagabhushanam, Occu: Inspector of C. Excise, O/o the Superintendent of C. Excise, Azamabad-II Range, C/o VST Industries, Azamabad, Hyderabad.

5.R.Sridhar, Superintendent of C. Excise, O/o the Commissioner of Customs and C. Excise, Hyd-II Commissionerate, Anti-Evasion Wing, Basheerabagh, Hyderabad.

6.M.Rama Rao, Inspector of C.Excise, Kompally Range, Plot No. 240, Opp: Hanuman Temple, Chinna Thokatta, New Bowenpally, Secunderabad.

7.S.V.S.Nageswera Rao, occu: Inspector of C. Excise, O/o the Commissioner of Customs and C. Excise, Hyderabad-I Commissionerate, Basheerbagh, Hyderabad.

8.M.Balaji Singh, Inspector of C. Excise, Anti-Evasion Wing, Hyd-III Commissionerate, IV Floor, Basheerbagh, Hyderabad

9.G.Suryanarayana, occu: Inspector of C. Excise, Audit Section, Hyderabad-I Commissionerate, II Floor, Shulk Bhavan, Basheerbagh, Hyderabad-4

10.P.Gopal Reddy, Inspector of C. Excise, O/o the Commissioner of Customs and C. Excise, Hyderabad-II Commissionerate, Basheerbagh, Hyderabad-4

11.Md. Rafiuddin, Inspector of C. Excise, Anti-Evasion Wing, Hyd-I Commissionerate, III Floor, Shulk Bhavan, Basheerbagh, Hyderabad.

12.Mohd. Sirajuddin, Inspector of C. Excise, UB Wing, Air Cargo Complex, Begumpet, Hyderabad.

13.D.Srikanth, occu: Inspector of C. Excise, Hyderabad-E Division,P & I Wing, III Floor, CLS Buildings, Nampally Station Road, Hyderabad.

14.M.V.Subba Rao, Inspector of C. Excise, Audit Section, Hyd-III Commissonerate, IV Floor, K. Shulk Bhavan, Basheerbagh, Hyderabad

15.Nagesh V.Rao, Occu: Inspector of C.Excise, O/o the Commissioner of Customs and C. Excise, Hyd-II

Commissonerate, Shulk Bhavan, Basheerbagh, Hyderabad-4

16.Abdul Hafeez, occu: Inspector of C. Excise, Statistics

Section, Hyd-I Commissionerate, II Floor, Shulk Bhavan,

Basheerbagh, Hyderabad-4.

17.B.Paneswera Rao, Inspector of C. Excise, O/o the

Superintendent of C. Excise, Kothur-I Range, Shamshabad,

Ranga Reddy District.

18.G.Arun Kumar, Inspector of C. Excise, Tribunal Section,

Hyd-I Commissionerate, III Floor, Shulk Bhavan,

Basheerbagh, Hyderabad-4

19.K.Raja Kishor, Superintendent of C. Excise, O/o the

Commissioner of C. Excise, Tirupathi, 9/86-A, C.R.

Bldgs.West Church Compound, Amaravati Nagar, Tirupathi.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction, calling for the records pertaining to O.A.No. 954 of 2002 and batch, dated 29-12-2003 on the file of the Honourable Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash the extent of the order as prayed for as illegal, contrary, contrary to law and unconstitutional and declare the same as void abinitio, null and void and nonest in the eye of law.

Counsel for the Petitioner: MR.A.RAJASHEKAR REDDY

(ASSISTANT SG)

Counsel for the Respondent Nos.1 to 19:

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WRIT PETITION NO: 6099 of 2005

(WRIT PETITION (SR)NO : 7456 OF 2005)

Between:

1.The Chairman, Central Board of Excise and Customs,

Department of Revenue, Ministry of Finance, North

Block, New Delhi.

2.The Chief Commissioner of Customs and Central Excise, L.B.

Stadium Road, Basheer Bagh, Hyderabad - 11.

3.The Commissioner of Customs and Central Excise,

Hyderabad- II Commissionerate, L.B. Stadium Road,
Basheer Bagh, Hyderabad - 11.

..... PETITIONERS

AND

1.M.V.S.Prasad, Superintendent of C. Excise Audit

Section, Hqrs. Office, C.R.Buildings, Kannavari Thota,

Guntur –522 004.

2.C.Paul Dinakar Babu, Inspector of C. Excise, Service Tax

Cell, Vijayawada Division, C.R.Bulidings, Bandar Road,

Vijayawada-2

3.Syed Imtiaz Ahmed, Inspector of C.Excise, O/o Asst.

Commissioner of Customs, Rajiv Gandhi International

Airport, Begumpet, Hyderabad.

4.Shaik Meera Mohiuddin, Inspector of C. Excise, O/o the

Superintendent of C. Excise, Bollarum-III Range, Opp. ICICI

Bank, K.P.H.B Road, Hyderabad -72

5.Syed Abdullah, Inspector of C. Excise O/o the

Superintendent of C. Excise, , Kothur-I Range, Shamshabad

Rangareddy Distirct.

6.Syed Ikramulla Shah, Inspector of C.Excise, Divnl.office,

10-530. L.V. Ramana Reddyu Buildings, Sanathapet,

Nellore-524 001.

7.V.Hemanath Kumar, Inspector of C.Excise, O/o the

Commissioner of Customs and C. Excise, Hyderabad –IV,

Posnett Bhavan, Ramkoti, Hyderabad.

8.R.Surendra Kumar, Inspector of C.Excise, Hqrs. Office,

Preventive Section, C.R. Buildings, Kannavari Thota,

Guntur-522 004.

9.Mohd.Tajuddin, Inspector of C. Excise, O/o the

Superintendent of C. Excise, Sullurpet Range,

Sullurpet, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction, calling for the records pertaining to O.A.No. 953 of 2002 and batch dated 29-12-2003 on the file of the Honourable Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash the extent of the order as prayed for as illegal, contrary, contrary to law and unconstitutional and declare the same as void abinitio, null and void and nonest in the eye of law.

Counsel for the Petitioners: MR.A.RAJASHEKAR REDDY

(ASSISTANT SG)

Counsel for the Respondent Nos.1 to 9:

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WRIT PETITION NO : 6100 of 2005

(WRIT PETITION (SR)NO : 7471 2005)

Between:

The Chief Commissioner of Customs and Central Excise, L.B.

Stadium Road, Basheer Bagh, Hyderabad -11.

..... PETITIONER

AND

Ch. Venkat Rao, Inspector of C. Excise, O/o the Commissioner of C. Excise, vps-I Commissionerate, Port Area, Visakhapatnam-35.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction, calling for the records pertaining to O.A.No. 701 of 2003 and batch dated 29-12-2003 on the file of the Honourable Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash the extent of the order as prayed for as illegal, contrary, contrary to law and unconstitutional and declare the same as void abinitio, null and void and nonest in the eye of law.

Counsel for the Petitioner: MR.A.RAJASHEKAR REDDY

(ASSISTANT SG)

Counsel for the Respondent: None appeared.

WRIT PETITION NO : 6097 of 2005

(WRIT PETITION (SR)NO : 8661 of 2005)

Between:

1.The Chairman, Central Board of Excise and Customs, North

Block, New Delhi.

2.The Chief Commissioner of Customs and Central Excise, L.B.

Stadium Road, Basheer Bagh, Hyderabad - 11.

3.The Commissioner of Customs and Central Excise,

Hyderabad- II Commissionerate, L.B. Stadium Road,
Basheer Bagh, Hyderabad - 11.

..... PETITIONERS

AND

1. N. PrakashRao, Superintendent of C. Excise, O/o the Asst.

Commissioner of C. Excise, Kurnool Divn, Kurnool.

2. T. Vivekananda, Superintendent of C. Excise, O/o the Asst.

Commissioner of C. Excise, Eluru Divn, Near Control Room Narasimharaopet, ELURU.

3. P.N.V. Prasad, Inspector of C. Excise, O/o the Asst. Commissioner of Customs, Rajiv Gandhi International Airport, Begumpet, Hyderabad.

4. D. Chandra Sekar Rao, Inspector of C. Excise, O/o the Asst. Commissioner of Customs, Rajiv Gandhi International Airport, Begumpet, Hyderabad.

5. S. Gopala Krishna Murthy, Inspector of C. Excise, O/o the Asst. Commissioner of C. Excise, Vijayawada divn, Bandar Road, Vijayawada.

6. Md. Mustafa Ali, Inspector of C. Excise, O/o the Commissioner of Customs andC. Excise, Guntur, C.R. Buildings, Kannavarithota, Guntur-24.

7. Md. Suleman, Inspector of C. Excise, Legal Section, Hyderabad-IV Commissioenrate, G. Floor, Posnett Bhavan, Ramkoti, Hyderabad-1.

8. P. Koteswara Rao, Inspector of C. Excise, O/o the Asst. Commissioner of C. Excise, Vijayawada division, C.R. Buildings, Bandar Road, Vijayawada-2.

9. T.V.R. Sambasadasiva Rao, Inspector of C. Excise, Hyderabad-B Division, Opp: ICICI Bank, K.P.H.B. Hyderabad-72.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction, calling for the records pertaining to O.A.No. 1022 of 2002 and batch dated 29-12-2003 on the file of the Honourable Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash the extent of the order as prayed for as illegal, arbitrary, contrary to law and unconstitutional and declare the same as void abinitio, null and void and nonest in the eye of law.

Counsel for the Petitioner: MR.A.RAJASHEKAR REDDY

(ASSISTANT SG)

Counsel for the Respondent Nos.1 to 9: None appeared.

The Court made the following:

COMMON JUDGMENT:

(per G. Bikshapathy J)

1. These Writ Petitions are directed against the Order of the learned Central Administrative Tribunal, Hyderabad Bench, Hyderabad in O.A.NO. 938 of 2002 and Batch, dated: 29.12.2003.

2. The appointment to the posts of Inspector of Central Excise is provided by dual channel namely Direct Recruit Inspectors (hereinafter called the D.R.Is.) and Promotee Inspectors (hereinafter called the P.R.Is.). The fixation of inter se seniority among these two categories was in simmering pot for nearly two decades. After repeated upheavals and somersaults, the department has prepared a tentative seniority list dated: 22.7.2002 and thereafter final seniority list was notified on 7.8.2002 by the 2nd respondent-Commissioner of Customs and Central Excise,

Hyderabad-II, who is the cadre controlling authority. Challenging the said integrated seniority the P.R.Is. filed batch of O.A.Nos. 938 of 2002 and Batch. The following is the general prayer made by the applicants in the O.As. referred to above:

> **"To call for the records relating to and connected therewith the impugned seniority list issued in proceedings No. C.No.II/34/12/97-Estt (PF-III) dated: 22.7.2002 as confirmed in proceedings No. C.NO.II/34/12/97 Estt. (PF-III) dated: 7.8.2002 of the office of the 2nd respondent and quash or set aside the same to the extent of placements assigned to the applicants below 1992 and 1993 Direct Recruitees and consequential direct official respondents to revise the seniority and refix the seniority basing on their dates of promotion and following the principles of length of service, if necessary by declaring para No. 2.4.4 of O.M.No.351014/12/80- Estt. (D), dated: 7.2.86 of the Department of Personnel and Training as notified in the O.M.No. 22011/7/86-Estt.(D) dated: 3.7.1986 as arbitrary, illegal and unconstitutional and to grant all consequential benefits flowing there from and connected reliefs."**

3. Factual matrix in order to appreciate the inter se seniority dispute among D.R.Is. and P.R.Is. is referred to infra. The recruitment to the posts of Inspectors of Central Excise is made from two channels one from direct recruitment and another by promotion from in-service candidates in accordance with the provisions laid down in Central Excise and Land Customs Group-C Recruitment Rules, 1979 (for brevity "1979 Rules") framed by the President of India under proviso to Article 309 of Constitution of India. The ratio between the direct recruits and the promotions from various in-service cadres on the ministerial line was fixed under the Rules at 75% : 25%. However, the Rules did not provide modalities for preparation of the seniority list inter se D.R.Is. and P.R.Is and the seniority being prepared on the basis of the executive instructions issued by the Government of India from time to time.

4. Government of India issued Office Memo No. 9/11/55 RSP dated: 22.12.1959 (for brevity "1959 OM) stipulating general guidelines for determining the seniority of various category of employees in the Central Secretariat which was also followed by the Central Excise Department. In the said Memo, the seniority of persons would be

determined by the Order indicated at the time of initial appointment and not according to the date of confirmation. Permanent Officers of each grade shall be ranked seniors to persons, who are officiating to that grade. However, the inter se seniority of the direct recruits shall be determined by the Order of merit in which they are not selected for such appointment on the recommendations of the U.P.S.C. or such selecting authority. Paras 2,3,4 and 5 are relevant which are extracted below:

> **"2. Subject to the provisions of Para 3 below, persons appointed in a substantive or officiating capacity to a grade prior to issue of these general principles shall retain the relative seniority already assigned to them or such seniority as may be hereafter be assigned to them under the existing Orders applicable to their cases and shall en-block be senior to all others in that grade.**
>
> a. **persons who are confirmed retrospectively with effect from a date earlier than the issue of these general principles; and**
>
> b. **persons appointed on probation to a permanent post substantively vacant in a grade prior to the issue of these general principles.**
>
> **shall be considered to be permanent officers of the grade.**
>
> **3. Subject to the provisions of Para 4 below, and subject to the condition that seniority of persons would be determined by the order indicated at the time of initial appointment and not according to the date of confirmation, permanent officers of each grade shall be ranked seniors to persons who are officiating to that grade.**
>
> **<u>4. Direct Recruits</u> - Notwithstanding the provisions of para 3 above, the relative seniority of all direct recruits shall be determined by the order of merit in which they are selected for such appointment, on the recommendations of the U.P.S.C. or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection.**
>
> **Provided that where persons recruited initially on temporary basis are confirmed subsequently in an order different from the**

order of merit indicated at the time of their appointment, seniority would be determined by the order indicated at the time of initial appointment and not according to the date of confirmation.

5. Promotees – (i) The relative seniority of persons promoted to the various grades shall be determined in the order of their selection for such promotions.

Provided that where persons promoted initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their promotion, seniority would be determined by the order indicated at the time of initial appointment and not according to the date of confirmation.

(ii) Where promotions to a grade are made from more than one grade the eligible persons shall be arranged in a separate list in the order of their relative seniority in their respective grades. Thereafter, the Departmental Promotion Committee shall select persons for promotion from each list up to the prescribed quota and arrange all the candidates selected from different lists in a consolidated order of merit which will determined the seniority of the persons on the promotion to the higher grade.

NOTE: If separate quotas for promotions have not already been prescribed in the relevant recruitment rules, the Ministries/Departments may do so now, in consultation with the Commission wherever necessary.

Clarification: Where the post in the feeder grade are in different scales of pay or even in identical or equivalent scales of pay, officers up to the number of vacancies for each feeder grade as per the quota may be selected and interpolated in a combined select list according to the grading. The persons who are assigned the same grading by the D.P.C. should be arranged in the consolidated order of merit with reference to the date arrived at after adding the requisite number of years of qualifying service in the feeder grade to their date of appointment, i.e. with reference to the date from which they became eligibile for promotion after rendering the prescribed qualifying service in the feeder grade, maintaining their inter-se seniority in the present service/grade.

The matter has been re-examined in the light of a recent judicial pronouncement and it has been decided that the above instructions may continue to be followed subject to the modification that among the persons in the feeder grades given the same grading, those in the higher scales of pay will rank senior to those in the lower scales of pay."

Para 6 relates to relative seniority of D.R.Is. and P.R.Is., which reads thus:

"6. <u>Relative seniority of direct Recruits and Promotees:-</u> The relative seniority of direct recruits and promotees shall be determined according to the rotations of vacancies between direct recruits and promotees which shall be based on the quota of vacancies reserved for direct recruitment and promotion respectively in the Recruitment Rules."

Thus, under 1959 Memo inter se seniority between P.R.Is. and D.R.Is. shall be based on the quota of the ratio basing on the Recruitment Rules. However, it became necessary to review the said procedure in view of the decisions of the High Courts and the Supreme Court culminating issuance of OM No. 35014/2/80-Estt.(D), dated: 7.2.86 (for brevity 1986 Memo). We feel it appropriate to extract the memo in toto as the entire edifice of the case rests on the interpretation of the aforesaid memo, which reads thus:

<u>"COPY OF THE LETTER NO. 35014/2/80-ESTT (D) DATED 7.2.1986 OF GOVERNMENT OF INDIA, MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS, DEPARTMENT OF PERSONNEL & TRAINING, NEW DELHI RECEIVED WITH LETTER F.NO. 12.31.86-Coord/DEPARTMENT OF REVENUE, NEW DELHI.</u>

<u>OFFICIAL MEMORANDUM</u>

<u>Sub: General Principles for determining the seniority of various categories of persons employed in Central Services.</u>

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As the Ministry of Finance etc. are aware, the General Principles for determination of seniority in the Central Services are contained in the Annexure to Ministry of Home Affairs OM No.9/11/55-RPS dated: 22nd December, 1959. According to paragraph-6 of the said annexure, the relative seniority of direct

recruits and promotees, which will be based on the quota of vacancies reserved for direct recruitment and promotion respectively in the Recruitment Rules. In the explanatory Memorandum to these principles, it has been stated that a roster is required to be maintained based on the reservation of vacancies for direct recruitment and promotion in the Recruitment Rules. Thus, where appointment to a grade is to be made 50% by direct recruitment and 50% by promotion from a lower grade, the inter-se seniority of direct recruits and promotees is determined on 1:1 basis.

2 . While the above mentioned principle was working satisfactorily in cases where direct recruitment and promotion kept pace with each other and recruitment could also be made to the full extent of the quotas as prescribed. In cases where there was delay in direct recruitment or promotion, or where enough number of direct recruits or promotees did not become available, there was difficulty in determining seniority. In such cases, the practice followed at present is that the slots meant for direct recruits or promotees, which could not be filled up, were left vacant, and when direct recruits or promotees became available through later examinations or selections, such persons occupied the vacant slots, thereby became senior to persons who were already working in the grade on regular basis. In some cases, where there was shortfall in direct recruitment in two or more consecutive years, this resulted in direct recruits of later years taking seniority over some of the promotees with fairly long years of regular service to their credit. This matter had also come up for consideration in the various Court cases both before the High Courts and the Supreme Court and in several cases the relevant judgment had brought out the inappropriateness of direct recruits of later years becoming senior to promotees with long years of service.

3. This matter, which was also discussed in the National Council has been engaging the attention of the Government quite some time and it has been decided that in future, while the principle of rotation of quotas will still be followed for determining the inter-se seniority of direct recruits and the promotees, the present practice of keeping vacant slots for being filled up by the direct recruits of later years, thereby giving them unintended seniority over promotees who are already in position would be dispensed with. Thus, if adequate number of direct recruits do not become available in any particular year, rotation of quotas for purpose of

determining seniority would take place only to the extent of available direct recruits and promotees. In other words, to the extent of direct recruits are not available, the promotees will be bunched together at the bottom of the seniority list, below the last position up to which it is possible to determine seniority, on the basis of rotation of quotas with reference to the actual number of direct recruits who become available. The unfilled direct recruitment quota vacancies would, however, be carried forward and added to the corresponding direct recruitment vacancies of the next year (and to subsequent years where necessary) for taking action for direct recruitment for the total number according to the usual practice. Thereafter, in that year while seniority will be determined between direct recruits and promotees, to the extent of the number of vacancies for direct recruits and promotees as determined according to the quota for that year, the additional direct recruits selected against the carried forward vacancies of the previous year would be placed en-block below the last promotee (or direct recruit as the case may be), in the seniority list based on the rotation of vacancies for that year. The same principle holds good for determining seniority in the event of carry forward, if any, of direct recruitment or promotion quota vacancies (as the case may be) in subsequent year.

ILLUSTRATION:

Where the recruitment rules provide for 50% of the vacancies of a grade to be filled by promotion and the remaining 50% by direct recruitment, and assuming there are 10 vacancies in the grade arising in each of the years 1986 and 1987 and that 2 vacancies intended for direct recruitment remain unfilled during 1986 and they could be filled during 1987, the seniority position of the promotees and direct recruits of these two years will be as under:

1986

1. **P1**
2. **D1**
3. **P2**
4. **D2**
5. **P3**
6. **D3**
7. **P4**

8. **P5**

1987

9. **P1**
10. **D1**
11. **P2**
12. **D2**
13. **P3**
14. **D3**
15. **P4**
16. **D4**
17. **P5**
18. **D5**
19. **D6**
20. **D7**

4. In order to help the appointing authorities in determining the number of vacancies to be filled during a year under each of the methods of recruitment prescribed, a vacancy Register giving a running account of the vacancies arising and being filled from year to year may be maintained in the proforma enclosed.

5 . With a view to curbing any tendency of under reporting/suppressing the vacancies to be notified to the concerned authorities for direct recruitment, it is clarified that promotees will be treated as regular only to the extent to which direct recruitment vacancies are reported to the recruiting authorities on the basis of the quotas prescribed in the relevant recruitment rules. Excess promotees, if any, exceeding the share falling to the promotion quota based on the corresponding figure, notified for direct recruitment would be treated only as ad-hoc promotees.

6. The General Principles of seniority issued on 22nd December, 1959 referred to above, may be deemed to have been modified to that extent.

7. These Orders shall take effect from 1st March, 1986, Seniority already determined in accordance with the existing principles on the date of issue of these Orders will not be reopened. In respect of vacancies for which recruitment action has already been taken on the date fo issue of these orders either by way of direct recruitment or promotion, seniority will continue to be determined in accordance with the principles in force prior to the issue of this OM.

8. Ministry of Finance etc. are requested to bring these instructions to the notice of all the attached/subordinate officers under them to whom the General Principles of seniority contained in OM dated: 22.12.1959 are applicable with in 2 weeks as these Orders will be effect from the next month.

Sd/-

(AARTI KHOSLA)

JOINT SECRETARY TO THE GOVERNMENT OF INDIA"

5. It has to be noted that the said memo was not challenged by either parties. But, however, the dispute inter se were only directed towards the implementation and proper fixation of seniority in terms of 86 Memo.

COMMENCEMENT OF DISPUTES AND FILING OF O.As.

6. While so, five P.R.Is., who were promoted in 1983-84 filed O.A.NO. 156 of 1986 challenging the seniority list dated: 8.7.1985 issued by the department on the ground that the length of continuous service was not taken into consideration while fixing the seniority. The said O.A. was allowed on 5.7.1998 and the Central Administrative Tribunal directed the department to recast the seniority in accordance with 1986 O.M. after giving notice to the affected parties. In compliance of the said Orders, revised list was issued. But, however, it has to be noted that earlier O.A.NO. 156 of 1986 was only filed against the official respondents and no D.R.Is. were made party. Therefore, the D.R.Is. whose seniority was effected by the revised seniority list filed review applications R.A.No. 29 of 1994 and Batch in the above said O.A. 156 of 1986. But, however, following the Order in O.A.NO. 156 of 1986, the same directions

were issued. Thereafter, the department issued final seniority list as on 1.1.1992 in proceedings dated: 30.4.1993. The P.R.Is. who were promoted earlier to 1986 also requested the department to fix their seniority in terms of the judgment in O.A.NO. 156 of 1986. It may be noted that the Order in O.A.NO. 156 of 1986 was with reference to 1986 OM, which was not made applicable to Pre-1986 promotees. But, however, the matter was referred to the Central Board of Excise and Customs, which appears to have clarified that the procedure of fixation of seniority notified in 1986 OM has to be implemented to Pre-1986 promotees also. Accordingly, seniority list was prepared in respect of the Officers prior to 1986 on the lines of 1986 OM. Thereupon, the direct recruits filed Review application in R.A.No.103 of 1993 and Batch against the seniority list dated: 30.4.1993. As the tribunal doubted the principle laid down in O.A.NO. 156 of 1986 and batch, the matters were referred to Full Bench on the issue as to whether 1986 OM was prospective or retrospective. It was clarified by the Full Bench that 1986 OM only operates prospectively from 1.3.1986. On the basis of the finding of the Full Bench, the tribunal heard the review applications along with O.A. Nos. 1323 of 1993, 285 of 1994 and 906 of 1994. However it may be noted that the Central Government preferred Special Leave Petition against the Orders of Tribunal in O.A.NO. 156 of 1986 and it was dismissed as barred by time. The tribunal considered the matter and the cases were disposed by a common Order dated: 13.2.1987 recording the following conclusions:

i. **The O.M dated: 7.2.86 has prospective application.**

ii. **Inter-se seniority prior to 7.2.86 has to be regulated in accordance with 1950 O.M.**

iii. **There was no break down of quota rule. Hence, the 1959 O.M. has to be followed.**

iv. **The cases of those who were officiating as Inspectors prior to 1.3.86 but regularised after that date are required to be individually decided after determining the nature of officiation, nature of the post, to which the officiation related and the**

provisions of O.M of 1959 and cannot be generalised.

v. **Where the selection process was commenced prior to 1.3.86 for direct recruitment but the appointment was made after that date that will be governed by the O.M. dated: 7.2.86."**

Holding so, the seniority list prepared as on 1.1.1992 was quashed and department was directed to make fresh exercise. With a view to implement the said judgment of the tribunal, a Special Cell was constituted with Superintendent of Central Excise as Head. Thereafter, the final seniority list dated: 15.10.1997 was issued basing on the recommendations of the special cell and the same was declared as final on 1.1.1992. However, against the said final seniority list Review Application No.56 of 1998 and batch came to be filed in the common Orders in O.A.NO. 1323 of 1993 and batch by P.R.Is. Review Applications were dismissed by an Order dated: 27.8.1999. However, while dismissing the review applications, the tribunal was of the opinion that some quietus should be given to the long pending battle and suggested to the department to constitute a Committee consisting of Senior Commissioner as Chairman and to arrive at consensus duly associating the representatives of D.R.Is. and P.R.Is. and if there was any difference of opinion, the same has to be recorded in the note and final decision should be left to the Chief Commissioner, who is the cadre controlling authority. Accordingly, in obedience of the Orders of Tribunal such a Committee was formed. While so, O.As. which were already pending O.A.NO. 429 of 1998 and Batch challenging the seniority list dated: 15.10.1997 relating to the final seniority list as on 1.1.1992 came up for hearing after the formation of the Committee and it appears that the Officers of the Department placed before the tribunal, the status of the preparation of the seniority list and it was stated that the final decision is awaited from the Chief Commissioner and accordingly O.As. were disposed of on 30.3.2000 observing the seniority list as on 1.4.1998 may be revised on the basis of the decision taken by the Chief Commissioner with a liberty to the affected parties to approach the tribunal once again. This is how another spate of litigation sprung up.

7. The Commissioner cadre controlling authority after taking into consideration the seniority list prepared by the Committee circulated a tentative seniority list as on 1.1.2002 and objections were called for. The applicants in O.As. also filed their objections again making grievance that their seniority was adversely affected and many juniors were figuring above their names. But, however, their objections were over ruled and final seniority list was published on 7.8.2002.

8. Again questioning the said final seniority list, P.R.Is. filed O.A.No.938 of 2002 and Batch contending that the seniority list finalised was not in conformity with the directions issued by the tribunal in O.A.NO. 1323 of 1993 and Batch and principles laid down in 1959 and 1986 O.Ms. The official respondents as well as the unofficial respondents seriously contested the matter. It was contended by the official respondents that the procedure adopted by them was quite legal and valid and in accordance with the rules and also taking into consideration the vacancy position from time to time and the action was also in tune with 1986 O.M.

9. On the other hand, the D.R.Is. also contended that in fact P.R.Is. occupied more than 25 per cent quota and that the litigation is continued by P.R.Is. on one ground or other without allowing the matter to be settled.

10. The learned tribunal went into the matter elaborately once again with reference to the 1959 and 1986 O.M and also other materials furnished by the Department as well as the parties and recorded the following findings:

i. **The DR/PR Register of Inspectors, which has been maintained in the office and forwarded to the Hyderabad-I Commissionerate is an authentic document which discloses the actual vacancies that arose in each year during the period from 1984 to 1991 and the exact ratio of 3:1 of DR and PR quota**

respectively;

ii. **There were no excess promotions during the years 1983 to 1991. 25% of the actual vacancies which arose in each year during the said period were given to the promotees. No vacancy of direct recruit in any year is filled by promotees;**

iii. **The indents placed with, the Staff Selection Commission for the recruitment of DRs are found to be only for a part of vacancies (due to partial, ban etc.) and not for the exact 75% of the actual vacancies available in each year. There were no instances of suppression or under-reporting of vacancies available for direct recruits out of the permanent cadre strength in any year, in order to help the promotees. Hence, there is no justification for invoking para 5 of the O.M. of 1986. The official respondents came to an erroneous conclusion that there were excess promotions by wrongly estimating the promotee quota on the basis of the indents placed for direct recruitment;**

iv. **(a) The date of appointment of direct recruits is to be taken as the date for counting seniority but not from the date of receipt of the dossiers from the recruiting authorities or the date of recommendation made. Hence the seniority of direct recruits appointed after 1.3.86 is to be revised only from the date of their respective appointments but not earlier to 1.3.1986 as is wrongly done in the impugned seniority list,**

(b) The direct recruits appointed in 1992

are to be given seniority only in that year but not in 1991 as is wrongly done in the impugned seniority list;

v. **The seniority of five applicants in O.A.NO. 156/86 originally fixed as per the judgment in that case, has to be restored and the same cannot be altered.**

vi. **The persons who were promoted ad hoc basis in any year**

in the vacancies available to them are eligible for seniority from the date of their continuous officiation, if they were promoted within their eligible quota of that year under the Recruitment Rules;

vii. **The promotees promoted in 1983 against 17 posts diverted from Shillong, are entitled to seniority in terms of 1959 O.M;**

viii. **Out of 137 promotees regularised on 27.10.1988 the seniority of those applicants who were regularised under the earlier Order in 1985 is to be fixed rior to 1.3.1986, on the said earlier date of their regularisation in 1985;**

ix. **In respect of temporary posts which do not form part of the cadre strength, which were filled up by promotees, their seniority is to be fixed from the date of promotion/appointment.**"

In conformity with the findings, the O.As. were allowed and the seniority list prepared as on 1.1.2002 was set aside and the official respondents were directed to revise, refix the seniority list in the cadre of Inspectors in tune with the above findings and the Orders passed on 13.2.1997 in O.A.NO. 1322 of 1993. The official respondents were further directed to ascertain number of vacancies, which arose in each year for working out D.R.Is. and P.R.Is. ratio of 3:1 on the basis of the D.R.Is. and P.R.Is. Register maintained during the 1991-94 and for the remaining period subsequent to 1999 on the basis of the authentic records maintained in the office. Aggrieved by the said Orders dated: 29.12.2003 the D.R.Is. as well as the Central Government filed the present Writ Petitions.

11. However, the learned Standing Counsel for the Central Government submits that he has received instructions from the Government to the effect that they are not contesting the finding of the tribunal that the seniority shall be fixed from the date of

appointment and not from the date of communication of dossiers of the selectees by the selection authority.

12. Mr. E. Manoher, the learned Senior Counsel, Mr. K. Subrahmanyam, Mr. K. Kanaka Raju, Mr. B. Adinarayana Rao and Mrs. G. Sudha appeared for the petitioner D.R.Is. Mr. A. Rajasekhara Reddy, Asst. S.G. appeared for Central Government. For the P.R.Is.-unofficial respondents Mr. S.R. Ashok, Mr. C.V. Mohan Reddy, Mr. P. Naveen Rao, Mr. M. Kesava Rao, Mr. K.K. Srinivas, Mr.B.G. Ravinder Reddy, Mr. Y. Venkatesh Reddy appeared.

13. The learned Senior Counsel Mr. E. Manoher appearing for the D.R.Is. submits that the tribunal has not properly considered the scope of the relief claimed by the applicants-P.R.Is. in the O.As. and travelled much beyond the relief claimed. In that process, the tribunal committed errors apparent on the face of the record. The learned counsel would also submit that the fixation of seniority is not covered by any statutory rules. But, however, the same is undertaken by virtue of the executive Orders passed by the Government from time to time and the Memo issued in 1959 and revised memo issued in 1986 are the pivotal pillars for fixing the appropriate seniority inter se D.R.Is. and P.R.Is. But, the tribunal without properly appreciating the contents of the aforesaid Memos travelled far beyond and recorded various findings which are neither asked for nor warranted. The learned counsel referred to some of the findings regarding interpretation of the **"YEAR"** and submits that "YEAR" has to be construed as fixed by the executive Order, but the definition under the General Clauses Act cannot be imported. He further submits that the seniority is not a fundamental right, but a civil right and the same can be altered depending on the facts and circumstances of each case. He also further submits that when the tribunal has recorded a finding that the rota has not been broken down, then the tribunal ought to have confirmed the seniority list as finalised by the department. He also submits that P.R.Is. were promoted in excess of their quota and therefore, in order to balance the ratio between P.R.Is. and D.R.Is., they have to be necessarily

bunched as per 1986 OM. He further submits that the impression gained by the tribunal that irrespective of filling up of the vacancies either indented or available according to the records, the quota of promotees should be filled up. This impression runs contrary to the 1986 OM and it would completely imbalances the ratio. He relies on the decision of the Supreme Court reported in K. SADASIVA RAO Vs. SECRETARY, MINISTRY OF DEFENCE, PRAFULLA KUMAR DAS Vs. STATE OF ORISSA and M. SUBBA REDDY Vs. A.P. STATE ROAD TRANSPORT CORPORATION.

14. The other counsel appearing for the D.R.Is. and Mr. A. Rajasekhar Reddy have substantially adopted the arguments of the learned Senior Counsel.

15. The learned Standing Counsel for the Central Government also submits that the seniority list was prepared in accordance with the directions issued by the tribunal from time to time. The seniority list having been prepared basing on the directions of the Tribunal, again finding fault with the seniority list is absolutely illegal and contrary to law. Even otherwise, the learned counsel would submit that the seniority list which conform to the directions issued in Government Memo 1959 and 1986 and the representation of the P.R.Is. have been dealt with in accordance with the rules and the procedure. He submits that the seniority list is being disturbed from time to time. Even for the third time, when the seniority list was prepared, the same was sought to be found fault by the tribunal on the grounds, which were not pressed into service. The learned counsel would also submit that the tribunal ought to have confined its adjudication with reference to the relief sought for by them, but went far beyond to upset the entire seniority list, right from the inception. Such a course is not open to the tribunal. Only handful of P.R.Is. challenged the seniority position and to the extent of their grievance only the tribunal ought to have confined its adjudication, but, went far beyond and set aside the entire seniority list. The tribunal also ought to have seen that the seniority shall be counted from the date when the promotee is appointed to a regular vacancy. Even if he was promoted earlier to the available

regular vacancy, either on temporary basis or on ad hoc basis it does not confer any right of seniority. He relies on the decision of the Supreme Court reported in A. JANARDHANA Vs. UNION OF INDIA and submits that the Order of the tribunal is liable to be set aside.

16. However, the learned counsel appearing for P.R.Is.-respondents submits that the seniority has to be counted from the date of regular promotion followed by regularisation. Therefore, when the P.R.Is. were promoted and regularised their seniority has to be counted from the date of regularisation without reference to the vacancies. But, the fact that their services were regularised would imply that they were appointed to regular posts. They rely on the following decisions:

> A.N. PATHAK Vs. SECRETARY TO THE GOVERNMENT, MINISTRY OF DEFENCE, A.K. SUBRAMAN Vs. UNION OF INDIA, JAGDISH CH. PATNAIH Vs. STATE OF ORISSA, AJIT KUMAR RATH Vs. STATE OF ORISSA, SANTOSH KUMAR Vs. STATE OF A.P., THE DIRECT RECRUIT CLASS-II ENGINEERING OFFICERS' ASSOCIATION Vs. STATE OF MAHARASHTRA and A. Janardhana's case(4th cited supra).

17. The Central Excise and Land Customs Department Group-C Posts Recruitment Rules (for short "1979 Recruitment Rules") provided for recruitment to the post of Inspectors of Central Excise published in Gazette of India dated: 2.6.1979 vide G.S.R.No. 742. The method of recruitment to the said post and age limit and qualifications connected therewith have been specified in column Nos. 6 to 14 of the Schedule. Column No.8, 11 and 12 are relevant for our purpose in the exercise of the method of recruitment. The said columns are extracted below:

Educational & other Method of recruitment whether In case of recruitment

qualification. by direct recruitment or by Promotion- by Promotion/deputation

required for direct motion of or by deputation/transfer Transfer grade from which

recruits. and percentage of the vacancies to promotion/deputation/

be filled by various methods. Transfer to be made.

(8) (11) (12)

Essential: Degree from (i) 75% by direct recruitment Promotion:

a recognised University (ii) 25% by promotion By selection amongst:

or an equivalent qualifi- (i) Upper Division Clerks with

cation. 5 years service.

Note: (ii) Upper Division Clerks with

Candidates would be 13 years of total service….

required to possess

such physical standards (iii) Stenographers (senior

and pass such physical Grade) with 2 years service.

tests, as may be prescribed

by the Central Board of (iv) Stenographers…..

Excise & Customs

from time to time.

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18. As per 1959 OM, the rotation of the vacancies between D.R.Is. and P.R.Is. shall be based on quota of vacancies reserved for D.R.Is. and P.R.Is. in the Recruitment Rules. According to the said instructions, where there was delay in direct recruitment of promotion or where enough number of direct recruits or promotees did not become available, the slots meant for D.R.Is. or P.R.Is. as the case may be, which could not be filled up were left vacant and when D.R.Is./P.R.Is. are available through process, such persons occupied the vacant slots thereby became seniors to the persons who were already working in the grade on regular basis. Paras 2,3,4,5 and 6 of 1959 OM are relevant, which were already extracted in the preceding paragraphs. However, it was found that whenever there was delay in direct recruitment and the vacancies are filled up after considerable period for various administrative reasons, and they were allotted the slots earlier to the promotees.

Disputes were raised by the promotee Officers to the effect that though they were appointed according to Rules much earlier to the direct recruits, they were given the lower seniority. These issues came up before various High Courts and the Supreme Court. Therefore, in order to solve this simmering problem with regard to the fixation of the seniority between D.R.Is. and P.R.Is., the Government issued a memo dated: 7.2.1986 (hereinafter called the 1986 OM) and it was decided by the Government that while the principle of rotation of quotas will still be followed for determining the inter se seniority of direct recruits and promotees, the present practice of keeping vacant slots for being filled up by direct recruits of later years, thereby giving them unintended seniority over promotees who are already in position would be dispensed with. In order to maintain the equilibrium in the prescribed ratio of 75% and 25% between P.R.Is. and D.R.Is., bunching process was introduced.

19. From a reading of 1986 O.M. the following principles would emerge clearly:

1. **The principle of rotation of quota as stipulated in 1959 OM will be followed for determination inter se seniority of P.R.Is. and D.R.Is.**

2. **The practice of keeping vacant slots to be filled up in recruitment of later years is dispensed with in order to do away with giving unintended seniority over the promotees.**

3. **In case, adequate number of D.R.Is. are not available in any particular year, the rotation of quota for the purpose of determining the seniority, will take place only to the extent of availability of D.R.Is. and available P.R.Is. will be bunched together at the bottom of the seniority list below the last position up to which it was possible to determine the seniority on the basis of the rotation of the quotas with reference to the actual number of D.R.Is., who become available.**

The illustration given in the O.M. would clearly amplify the practical working out of the above principle. The said O.M. entered the force with effect from 1.3.1986. The seniority already determined in accordance with the 1959 principles will not be reopened.

20. In respect of the vacancies for which the recruitment had already taken place on the date of the issue of the Orders either by way of direct recruitment or promotion, the fixation of seniority continued to be in accordance with the 1959 principle. But, however, under paras 4 and 5 of 1986 Memo the Government has clarified the situation as a matter of guideline to the appointing authorities for the purpose of working out the illustration and determining the number of vacancies to be filled up during a year in accordance with the method of recruitment prescribed, a vacancy register running account of the vacancies arising and being filled up from year to year and is required to be maintained in the proforma as annexed. However, in order to obviate the tendency of under-reporting or suppressing the vacancies to be notified for direct recruitment, the Government clarified that the promotees will be treated as regular only to the extent to which direct recruitment vacancies are reported to the recruiting authorities on the basis of the quota prescribed in the relevant Recruitment Rules and excess promotees if any exceeding the promotion quota based on the corresponding figure would be treated only as adhoc promotees. Much controversy has been raised on these two paragraphs. The tribunal had conducted elaborate exercise on these paragraphs and came to the conclusion that the promotions have to be effected on the basis of the vacancy register. But, in order to consider effect of paras 4 and 5, exercise conducted by the tribunal is wholly uncalled for. The very introduction of bunching system is to create balancing factor. What is to be ensured is at a given point of time whether the proportionality between the D.R.Is. and P.R.Is. is maintained in the ratio of 3:1. For this purpose, para 5 is the only answer which clearly determines that the promotions are corelatable to the extent of direct recruitment vacancies reported to the recruiting authorities on the basis of the quota prescribed in the relevant rules, subject to bunching process. Therefore, if any excess promotions are made, beyond the quota indented, such excess promotions are required to be treated as ad hoc promotions, so that in the next recruitment, the adhoc promotees will get a berth in the regular vacancies.

21. As we noticed that the vacancy register at the most indicates the vacancy position in D.R.I./P.R.I. cadre and it is not intended to confer the benefit of promotion on in-service candidates more especially when the promotions are to be effected with reference to the vacancies indented for D.R.Is. Therefore, the observation of the tribunal that only in case of detection of under reporting/suppression the bunching process had to be adopted and in other cases the vacancies position vis-à-vis the promotion has to be identified from the vacancy register is untenable.

22. Lot of stress has been laid by the counsel appearing for the promotees that the seniority has to be counted from the date of their initial promotions followed by the regularisation as per the judgment of the Supreme Court reported in Direct Recruit's case (10^{h} cited supra). But, it has to be noted in this regard that the tribunal has recorded a categorical finding in the earlier proceedings that the quota rule has not been broken and it is only when quota rule is broken, the period of continuous service followed by the regularisation was directed to be counted for the purpose of seniority.

23. It has been held by the Supreme Court in Subba Reddy's case (3rd cited supra) Per majority, while interpreting regulation 34(6) of A.P.S.R.T.C. employees (Service) Regulations, 1964 that the posts reserved to be filled up by recruitment if they are filled up by the departmental promotees on the temporary basis and as soon as the eligible candidates from direct quota are available, the promotees are to be replaced. Therefore, when the promotees are tentatively appointed to the promoted posts for want of direct recruits and the posts reserved for direct recruits, it cannot be said that they were first appointed to that category out of Regulation 3 of Service Regulations. Therefore, seniority had to be fixed between the direct recruits and promotee recruits strictly in accordance with the quota prescribed in the Rules. The Supreme Court observed that the promotee officers were promoted temporarily under Regulation 30, which provides for ad hoc promotions while Regulation 34 ensures induction of qualified direct recruits. But, for Regulation 34, candidates from

feeder posts would be temporarily promoted to the slots reserved for direct r3ecruits and on their regularisation, the quota prescribed for direct recruits will be defeated. Regulation 34 has not been enacted to protect quota prescribed for direct recruits. The Supreme Court further observed thus:

> **"On reading Regulation 3 of the Service Regulations with Regulations 30 and 34 of the Recruitment Regulations, it becomes clear that neither the date of promotion nor the date of selection is the crieterion for fixation of seniority. The fixation of seniority under the said Regulations depends upon the number of vacancies falling in a particular category. Therefore, rota rule is inbuilt in the quota prescribed for direct recruits and for promotees in terms of Item 3 of Annexure 'A' (Section B) to the Recruitment Regulations. In the present case, the said Regulations prescribe a quota of 1:1, which leads to rota for confirmation. In the circumstances, there is no merit in the Appellants' argument that Item 3(1) of Annexure 'A' (Section B) prescribes only quota and not rota and that the said item was not for determination of seniority.**

It was also contended by the promotee officers that since their services were regularised with retrospective effect, they are not liable to be pushed on direct recruits in the seniority list. But, this contention was repealed and the Supreme Court observed as follows:

> **"The Appellants' contention that after their regularisation by Order dated: 9.9.1988 with retrospective effect from the dates indicated against their names and against the posts earmarked for promotion they were not liable to be pushed down below direct recruits has no merit. Under Regulation 30 read with Regulation 34, temporary promotees were liable to be reverted as and when approved direct recruits became available. That is clear from the terms of the order dated: 9.9.1988. In the present case, in the absence of direct recruitment, the Appellants could not have got seniority over direct recruits. Where there is inaction on the part of the Government or employer or imposed ban on direct recruitment in filling up the posts meant for direct recruits, it cannot be held that the quota has broken down."**

In the said case, the Direct Recruit's case (10th cited supra) was distinguished and

the Supreme Court followed the principles laid down in DEVINDRA PRASAD SHARMA Vs. STATE OF MIZORAM (1997)4 S.C.C. 422) and SURAJ PARKASH GUPTA Vs. STATE OF J & K (2000(7) S.C.C. 651) and STATE OF WEST BENGAL Vs. AGHORE NATH DEVY(1993(3) S.C.C. 371).

24. As held by the Supreme Court in Prafulla Kumar's case (2nd cited supra), under Article 309 of Constitution of India, the Legislature or the Governor of the State as the case may be may in its discretion bestow or divest the seniority. This is essentially a matter of policy, and the question of a vested right would not arise, as the State may alter or deny any such ostensible right, even by way of retrospective effect, if it so chooses in public interest. Further observed, seniority is not a fundamental right, but it is merely a civil right. The right of seniority is also not a vested right or accrued right. Even in respect of the concept of year of allotment, the Supreme Court observed that the person, who was appointed in 1985 can be deemed to have been appointed 1973 by legal fictions and such a situation cannot be said to be illegal. The Supreme Court in Prafulla Kumar's case (2nd cited supra) observed as follows:

> "**The concept of year of allotment has also been shown to be a workable one, inasmuch as it was still open to the Government in the post-1973 merger scenario to recruit officers from a variety of sources, including, but not limited to, transfer from comparable services. When once the concept of year of allotment is deemed to be upheld, it matters not that the first name of the O.S.A.S. would rank immediately below the last name of the erstwhile O.A.S. The material point of fact is that through the adoption of a legal fiction and by having recourse to his Constitutional function under Article 309 of the Constitution, the Governor of the State of Orissa appointed certain officers in the year 1975, who were appointed against vacancies which were identified in the year 1973, prior to the entry into force of the Merger Resolution of December 1973. That being the case, the legal fiction of year of allotment would operate in respect of the 1975 appointees as if they had been appointed in the year when the vacancies were initially identified; in other words, they would be deemed to have been appointed in the year 1973, prior to the merger of the O.A.S. II with the O.S.A.S., although their actual period of service was seen to commence only in 1975.**"

25. In O.P. SINGLA Vs. UNION OF INDIA (1984) 4 S.C.C. 450), a Bench of three Judges held that the seniority of direct recruits and promotees, if appointed under the rules, has to be determined on the basis of the dates on which the direct recruits were appointed the dates from which the promotees had been officiating continuously, either in the temporary posts or against substantive posts. The Direct Recruits Class II Engineering Officers Association's case (11th cited supra) was considered by three judges bench in STATE OF WEST BENGAL Vs. AGHORE NATH DEY(1993)3 S.C.C. 371) and explained the principles in Direct Recruits' case (11th cited supra) as follows:

> **"There can be no doubt that these two conclusions have to be read harmoniously, and conclusion (B) cannot cover cases which are expressly excluded by conclusion (A). We may, therefore, first refer to conclusion (A). It is clear from conclusion (A) that to enable seniority to be counted from the date of initial appointment and not according to the date of confirmation, the incumbent of the post has to be initially appointed 'according to rules'. The corollary set out in conclusion (A), then is, that 'where the initial appointment is only ad hoc and not according to rules and made as a stopgap arrangement, the officiation in such posts cannot be taken into account for considering the seniority'. Thus, the corollary in conclusion (A) expressly excludes the category of cases where the initial appointment is only ad hoc and not according to rules, being made only as a stopgap arrangement. The case of the writ petitioners squarely falls within this corollary in conclusion (A), which says that the officiation in such posts cannot be taken into account for counting the seniority."**
>
> **27. It was also explained as under:**
>
> **"The conclusion (B) was added to cover a different kind of situation, wherein the appointments are otherwise regular, except for the deficiency of certain procedural requirements laid down by the rules. This is clear from the opening words of the conclusion (B), namely, 'if the initial appointment is not made by following the procedure laid down by the 'rules' and the latter expression 'till the regularisation of his service in accordance with the rules'. We read conclusion (B), and it must be so read to**

reconcile with conclusion (A), to cover the cases where the initial appointment is made against an existing vacancy, not limited to a fixed period of item or purpose by the appointment order itself, and is made subject to the deficiency in the procedural requirements prescribed by the rules for adjudging suitability of the appointee for the post being cured at the time of regularisation, the appointee being eligible and qualified in every manner for a regular appointment on the date of initial appointment in such cases. Decision about the nature of the appointment, for determining whether it falls in this category, has to be made on the basis of the terms of the initial appointment itself and the provisions in the rules. In such cases, the deficiency in the procedural requirements laid down by the rule has to be cured at the first available opportunity, without any default of the employee, and the appointee must continue in the post uninterruptedly till the regularisation of his service, in accordance with the rules. In such cases, the appointee is not to blame for the deficiency in the procedural requirements under the rules at the time of his initial appointment, and the appointment not being limited to a fixed period of time is intended to be a regular appointment, subject to the remaining procedural requirements of the rules being fulfilled at the earliest."

The said decision was also followed in KESHAV DEO Vs. STATE OF U.P.(1999)1 S.C.C. 280) and L. CHANDRAKISHORE SINGH Vs. STATE OF MANIPUR((1999)8 S.C.C. 287)

26. In A.N. Pathak (5th cited supra), the grievance of the petitioner was that the rule discriminates between them and the direct recruits, that their seniority is not taken into consideration while the seniority list is prepared and that the direct recruits are given seniority over them undeservedly by virtue of the operation of the method of recruitment contained in the rules. The petitioners complain that the list so prepared is purely arbitrary and ignores their length of service. The Supreme Court observed in paras 13 and 14 as follows:

“13. We do not think it necessary to refer to the various decisions rendered by this Court on this question. In the cases of A. Janardhana v. Union of India, AIR 1983 SC 769, O.P. Singla v. Union of India, (1985) 1 SCR 351 : (AIR 1984 SC 1595) and in

G.S. Lamba v. Union of India, AIR 1985 SC 1019, length of service was given due importance in dealing with promotions and seniority. In the case of Narender Chadha v. Union of India, to which one of us was a party, it was held that to treat continuous officiation of one officer as temporary would be arbitrary and violative of Arts. 14 and 16. In G.K. Dudani v. S.D. Sharma, a three Judge Bench of this Court, Madon, J, speaking for the Bench, approved the settled principle noted above. The promotees come into service, not by any fortuitous circumstances but they form an integral part of the regular cadre entitled to all benefits by the length of their service.

14. The learned counsel for the respondents found it difficult to justify the validity of the rules and the lists in the light of the various decisions of this Court which have consistently leaned in favour of the promotees based on their length of service and seniority, in cases where there was inordinate delay in making direct recruitment. He tried to justify the inequity saying that the new rules have tried to rectify it. We are not satisfied with this explanation since that is little consolation to the petitioners. We are of the view that the grievance of the petitioners is justified in law. The rules enabling the authorities to fill in vacancies for direct recruits as and when recruitment is made and thereby destroying the chances of promotion to those who are already in service cannot but be viewed with disfavour. If the authorities want to adhere to the rules strictly all that is necessary is to be prompt in making the direct recruitment. Delay in making appointments by direct recruitment should not visit the promotees; with adverse consequences, denying them the benefits of their service."

27. In Jagdish Ch. Patnaik's case (7th cited supra), the direct recruits claimed that the seniority vis-à-vis the promotees should be fixed by taking into consideration the quota fixed for them and with reference to the vacancies occurred against this quota. Rule 26(1) of the Orissa Service of Engineers Rules, 1941, however, says: "When officers are recruited by promotion and by direct recruitment during the same year, the promoted officers shall be considered senior to the officers directly recruited irrespective of their dates of joining the appointment." Therefore, basing on the said rule, the contention of the direct recruits was rejected. The Supreme Court also observed that "year" as appearing in the said rule has to be construed as "Calendar

year". The Supreme Court further observed that referring to Orissa Service of Engineers Rules, 1941, that a person can be said to be only being appointed to the rank of Asst. Engineer. Therefore, merely because the recruitment process was initiated earlier year cannot be claimed for the purpose of seniority.

28. The Supreme Court in Direct Recruits' case (10th cited supra) summed up the principles as follows:

> **"(A) Once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation. The corollary of the above rule is that where the initial appointment is only ad hoc and not according to rules and made as a stop-gap arrangement, the officiation in such post cannot be taken into account for considering the seniority.**
>
> **(B) If the initial appointment is not made by following the procedure laid down by the rules but the appointee continues in the post uninterruptedly till the regularisation of his service in accordance with the rules, the period of officiating service will be counted.**
>
> **(C) When appointments are made from more than one source, it is permissible to fix the ratio for recruitment from the different sources, and if rules are framed in this regard they must ordinarily be followed strictly.**
>
> **(D) If it becomes impossible to adhere to the existing quota rule, it should be substituted by an appropriate rule to meet the needs of the situation. In case, however, the quota rule is not followed continuously for a number of years because it was impossible to do so the inference is irresistible that the quota rule had broken down.**
>
> **(E) Where the quota rule has broken down and the appointments are made from one source in excess of the quota, but are made after following the procedure prescribed by the rules for the appointment, the appointees should not be pushed down below the appointees from the other source inducted in the service at a later date.**

(F) Where the rules permit the authorities to relax the provisions relating to the quota, ordinarily a presumption should be raised that there was such relaxation when there is a deviation from the quota rule.

(G) The quota for recruitment from the different sources may be prescribed by executive instructions, if the rules are silent on the; subject.,

(H) If the quota rule is prescribed by an executive instruction, and is not followed continuously for a number of years, the inference is that the executive instruction has ceased to remain operative.

(I) The posts held by the permanent Deputy Engineers as well as the officiating Deputy Engineers under the State of Maharashtra belonged to the single cadre of Deputy Engineers.

(J) The decision dealing with important questions concerning a particular service given after careful consideration should be respected rather than scrutinised for finding out any possible error. It is not in the interest of Service to unsettle a settled position.

With respect to Writ Petition No. 1327 of 1982, we further hold:

(K) That a dispute raised by an application under Art. 32 of the Constitution must be held to be barred by principles of res judicata including the rule of constructive res judicata if the same has been earlier decided by a competent Court by a judgment which became final."

29. In Janardhana's case (4th cited supra), it was held that when the recruitment was made from two independent sources, subject to prescribed quota, but the power is conferred on the Government to make recruitment in relaxation of the rules, any recruitment made contrary to quota rules would not be invalid unless it is shown that the power of relaxation was exercised mala fide. The Supreme Court further observed that where the quota rule is linked with the seniority rule, if the first breaks

down or is illegally not adhered to, giving effect to the second would be unjust, iniquitous and improper. Therefore, once the quota was wholly relaxed to suit the requirements of service and recruitment made in excess of the quota for the promotees and the minimum qualification rule for direct recruits is held to be valid, no effect can be given to the seniority rule enunciated in para 3(iii), which is wholly interlinked with the quota rule and cannot exist apart from it on its own strength. The apex Court further held that Rule of continuous officiation or length of service would apply in the absence of any other valid rule for determining inter se seniority of members belonging to the same service.

30. In Santosh Kumar's case (9th cited supra), it was observed by the Supreme Court that when the promotion were given to the respondent to the post of Sub-Inspector was against the vacancies meant for the quota of promotees. The respondent was admittedly promoted on temporary basis as OSSI prior to the recruitment of the direct recruits. In such a situation, when once his services were regularised, that too in the promotee quota, the Appellant being a direct recruit cannot make any grievance. In this view it cannot be said that the Appellant was an affected person for want of notice before passing the Order of relaxation to challenge the seniority of the respondent. Therefore, it clearly states that if the promotion is within the quota even though a person was initially appointed on adhoc basis or temporary basis, subsequently he was regularised, his relaxation date for the purpose of seniority will be counted from the date of initial appointment. But, the crux of the problem is that he should be appointed by promotion within the quota prescribed for promotees.

31. In A.K. Subraman's case (6th cited supra), the fixation of seniority among the promotees and the direct recruited Engineers was in dispute. The quota for promotion between directly recruited and promotees from Class II which was initially in the ratio of 75% and 25% was later altered to 66-2/3% and 33-1/3% in 1955 and with effect from 1-4-1972, the percentage has come to be 50:50 for a period of seven

years. The Supreme Court observed in paras 28 and 29 thus:

> **"28. When recruitment is from two or several sources it should be observed that there is no inherent invalidity in introduction of quota system and to work it out by a rule of rotation. The existence of a quota and rotational rule, by itself, will not violate Article 14 or Article 16 of the Constitution (See Mervyn Coutinho v. Collector of Customs, Bombay (1966)3SCR 600 = (AIR 1967 SC 52)and Govind Dattatraya v. Chief Controller of Imports and Exports, (1967) 2 SCR 29 =(AIR 1967 SC 839). It is the unreasonable implementation of the same which may, in a given case, attract the frown of the equality clause. If the seniority list is now properly prepared in the manner indicated in this judgment, there may be no objection of the score of Article 14 or Art.16 of the Constitution. In this view of the matter, it is not necessary to pursue the arguments addressed regarding violation of Articles 14 and 16 of the constitution.**
>
> **29. To summarise the conclusions -**
>
> **(1) When Assistant Engineers (Class II) are initially appointed in a regular manner in accordance with the rules to officiate as Executive Engineers, their seniority in service in Grade I will count from the date of their initial officiating appointment in Class I <u>provided their initial officiating appointment as Executive Engineers was with in their quota.</u> (emphasis added.**
>
> **(2) Their seniority will not be reckoned from the date their future confirmation in Class I.**
>
> **The above principle is, however, subject to one reservation, namely, if an Assistant Engineer before his confirmation Class II were appointed to officiate in Class I in the grade of Executive Engineer, although within his Quota, his seniority will count only from the date of his confirmation in Class II as permanent Assistant Engineers notwithstanding his earlier officiating appointment as Executive Engineer.**
>
> **(3) The quota rule will be enforced at the time of initial recruitment, in an officiating capacity, to the grade of Executive Engineer and not at the time of confirmation.**

(4) The quota rule will be enforced with reference to vacancies in all posts, whether permanent or temporary, included in the sanctioned strength of the cadre (except such vacancies as are purely of a fortuitous or adventitious nature) and the operation of the quota rule will not depend upon the availability or non availability of Assistant Executive Engineers for appointment as Executive Engineers. The non-availability of Assistant Executive Engineers for recruitment to the grade of Executive Engineer will not postpone the regular recruitment of the Assistant Executive Engineers as Executive Engineers within their quota.

(5) Once the Assistant Engineers are regularly appointed to officiate as Executive Engineers within their quota they will be entitled to consideration in their own rights as Class I Officers to further promotions. Their "birth marks" in their earlier service will be of no relevance once they are regularly officiating in the grade of Executive Engineer within their quota.

(6) If Assistant Engineers are recruited as Executive Engineers in excess of their quota in a particular year they will be pushed down to later years for absorption when due within their quota."

32. In Ajit Kumar Rath's case (8th cited supra), the matter relates to fixation of seniority between the direct recruits and the promotees. The rule itself stipulates as follows:

"When Officers are recruited by promotion and direct recruitment during the same year (calendar year) the promoted officers shall be considered senior to the officers directly recruited, irrespective of their date of joining the appointment:. Promotion initially made on 8.2.1972 on adhoc basis and on receipt of concurrence from Public Service Commission, regular appointment made with retrospective effect. The direct recruitment also made in the year 1972 on a review of the rules held promotion by all means was regular which was made against permanent vacancy in accordance with the rules. It was kept provisional because concurrence of Public Service

Commission was to be received and on receipt of the concurrence, it was regularised. It was held that the promotees are entitled to seniority from the date of initial promotion and therefore, their rank senior to direct recruits of the year 1972."

Thus the rule itself provides that when recruitment takes place by promotion and direct recruitment in a year, the promotees shall rank seniors to the direct recruits.

33. Therefore, what is required to be considered is as to whether there was any conflict between Para 4 and 5 of 86 O.M. and whether promotee officers can claim seniority over the direct recruits when they occupied the posts beyond the prescribed ratio, subject to bunching process. It may be true that some of the P.R.Is. were promoted on temporary basis and some of the P.R.Is. were promoted on adhoc basis and even assuming that they are promoted on regular basis, without properly assessing the vacancies, that cannot confer any right to claim seniority from the date of their appointment. It is always subject to quota rule. That is what is being followed in 1959 O.M. But, however, a slight change was brought in 1986 doing away with the slotting system and replacing same by bunching system. The bunching process has the effect of balancing the ratio as far as possible without much deviation and it acts as an effective catalyst and always equalises the inequalities created by excess promotion or excess direct recruitment as the case may be. There cannot be microscopic calculations of vacancies more especially when the seniority is sought to be fixed right from 1985-86 onwards lea way in joints the inevitable and insignificant imbalances which do not tilt the scale necessarily has to be tolerated. In the process of fixation of seniority, there could be variation in the dates of promotion either in the P.R.Is. cadre or in the D.R.Is. cadre, but that should not be allowed to uproot the entire seniority list and efforts must be made to set right the commissions or omissions as far as practicable. But, setting aside the entire seniority list consisting of more than 1,500 employees at the instance of few individuals would upset the entire administration and Courts should be very slow to resort to such situations. As we see from para 5 of O.M. 1986, no prejudice is caused to the P.R.Is. by bunching process and any promotion beyond bunching stage are treated as ad

hoc promotions. Therefore, keeping in view the principle settled by the Supreme Court in various cases referred to above, we find that the 1986 O.M. does not suffer from vice of arbitrariness or illegality and on the other hand, it has a very salutary effect on the principle of fixation of seniority when the intake is by direct recruitment and by promotions. In fact in bunching system the P.R.Is. are only benefited as when the indented vacancies are not filled up in toto for non-availability of D.R.Is. for various reasons, the promotions are effected to the extent of indented vacancies. Thus, to illustrate if vacancies are indented are 9 and if finally only 6 are actually filled, yet, in-service candidates are promoted on the basis of 9 vacancies i.e. they get 3 vacancies otherwise if the promotion is made on the basis of actual selections, the promotees will only get 2 posts.

34. Even some of the decisions referred to by the learned counsel for the P.R.Is. to claim the seniority from the date of their initial appointment. As already observed by us, there are no statutory rules regulating the seniority inter se D.R.Is. and P.R.Is. by virtue of the executive Order issued by the Government of India. Even the executive Order has to be interpreted on the principles of interpretation of statutes. To this extent there is no dispute about it. Therefore, the Order has to be read as it is and nothing can be imported nor interpreted contrary to the intention of the Order. The quota has been specifically fixed between P.R.Is. and D.R.Is. 75% and 25% and the direction is very clear that the quota of promotees is co relatable to the indent placed for direct recruitment with the Staff Selection Board. Therefore, it has no relation to permanent strength or vacancy position. It may be that though there are vacancies, the Government may not be willing to fill up them for various reasons namely for economic requirement or for administrative reasons. But, it cannot be said that even though they have not filled up the direct recruits quota, the promotees should be given their share as per the vacancy position. The dispute also arose with regard to the identification whether it is assessed on the basis of the indents placed by the departments or by the Staff Selection Commission or on the basis of the vacancy position as reflected in the vacancy register. The tribunal appears to have observed

that the vacancy register is maintained in an ordinary course and that was also certified by the authorities to be correct and true and therefore, the refusal to rely on the indents placed by the department. But, this approach appears to be contrary to 1986 OM. It is only for the purpose of identifying the vacancies, the register may be taken aid of. But, that is not relevant when the promotion is effected. It has to conform to the quota prescribed between the promotees and direct recruits and the tribunal has already observed that quota rule was not broken. Under those circumstances, the promotions are required to be effected only on the basis of the indents placed by the department with the Staff Selection Board and the promotions cannot be correlated to the vacancy position. That is the reason why the bunching system has been introduced so as not to cause injustice to the promotee officers which clearly stipulates that even though vacancies which were indented by the department Staff Selection Board were not filled up, yet, to the extent of the indent, the promotions could be effected by resorting to bunching system, thereby the interest of the promotees were fully protected.

35. We have already narrated the Recruitment Rules and the principles of fixation of seniority. It is an admitted fact that seniority list of Inspectors as on 1.1.1995 was circulated by proceedings dated: 8.7.1985 that came to be challenged before the tribunal in O.A.NO. 156 of 1986. The tribunal by an Order dated: 5.7.1988 held that the applicants were entitled to get seniority revised in accordance with the principles laid down by the Supreme Court in Janardhana's case (4th cited supra) and also instructions issued by the Government in 1986 O.M and accordingly directed the department to recalculate the seniority. Similar directions were given in O.A.NO. 1019 of 1992 filed by the promotee Inspectors on line with the judgment in O.A.NO. 156 of 1986, which was filed by the Promotee Inspectors. Even though the department has filed belated S.L.P. the same was dismissed for laches. When the above O.As. were pending, the seniority list was issued on 28.6.1991 in respect of the Inspector cadre. That was again challenged before the tribunal in O.A.NO. 40 of 1992, 1019/92 and 1099/92. However, in the year 1992, as on 1.1.1992 another seniority list was circulated by proceedings No. 16.10.1992. It was issued subject to

the decision in O.A.NO. 156 of 1986, 40 of 1992 and since the aforesaid O.As. were allowed, a fresh seniority list in the cadre of Inspector of the Central Excise in Hyderabad Zone was issued on 1.4.1993 and issued circulate dated: 30.4.1993 revising the seniority of Inspectors right from 1972 onwards by applying the instructions issued in O.M.1986 retrospectively. Aggrieved by the said seniority list, D.R.Is. filed Revision Application Nos. 103 of 1993, 29 and 30 of 1994 and 81 of 1994 and 82 of 1994 in O.As. filed by the P.R.Is. and also some fresh O.As. were filed by D.R.Is. in O.A.NO. 1323 of 1994, 253 of 1994 and 901 of 1994. Since, the Division Bench of the tribunal doubted the principle laid down in O.A.NO. 156 of 1988 with regard to the retrospectivity of 1986 O.M. the issue was referred to Full Bench. The reference was answered by the Full Bench to the effect that the O.M. is prospective and not retrospective. Accordingly the matter was remitted to the Division Bench for appropriate Orders.

36. Therefore, the Division Bench following the Full Bench decision summed up the conclusions and by its Order dated: 13.2.1997, which are again reproduced herein:

1. **The OM dated: 7.2.86 has prospective application.**

2. **Inter se seniority prior to 1.3.86 has to be regulated in accordance with 1959 OM.**

3. **There was no break down of quota rule. Hence OM 22.12.59 has to be followed.**

4. **The cases of those who were officiating as Inspectors prior to 1.3.86 but regularized after that date are required to be individually decided after determining the nature of official nature of the post to which the officiation related and the provisions of OM 1959 and cannot be generalized.**

5. **Where the selection process was commenced prior to 1.3.86 for direct recruitment but the appointment was**

made after that date that will be governed by the OM dated: 7.2.86.

While recording such conclusions, the seniority list prepared as on 1.1.92 issued by the Collector of Customs and Central Excise dated: 30.4.1993 was quashed and department was directed to take consequential steps. But, however, thereupon the D.R.Is. filed Review Application No.56 of 1998 and batch. The said review petitions were also dismissed. However, the tribunal in paras 27, 28 and 29 observed as follows:

"27. The Seniority dispute had arisen between the direct recruits and the promotees. This seniority dispute is gong on for a long time and with a view to set at rest the conflict and inconsistent situation, the question was examined comprehensively irrespective of the Orders passed in the earlier judgment. Even this judgment does not appear to set at rest the seniority dispute. In any seniority dispute there will always be difference of opinion. In our opinion, no judicial forum can satisfactorily solve the seniority dispute. In any seniority dispute there will always be difference of opinion. In our opinion, no judicial forum can satisfactorily solve the seniority disputes. One party or the other will always have some grouse. The only way to bring down the seniority dispute to a considerable extent is to prepare a seniority list in a 'consensus' manner. Even this consensus manner may not satisfy all the employees. In our opinion, if the seniority list is prepared on the consensus basis, such dissatisfaction will be very limited. As the majority of the staff will be satisfied with the decision taken in preparing the seniority list, it is likely that litigations also will come down. In that context we are of the opinion that the seniority of the Inspectors in this case if prepared on a consensus basis by involving

may yield to issue a satisfactory seniority list. To achieve this, it is suggested that the Principal Collector of Customs and Central Excise may form a committee comprising of both direct recruits and promotees in equal number, the number of which to be decided suitably, and entrust the seniority dispute to be looked into by that Committee. That Committee may be headed by the senior Commissioner of the department who being a senior

official will hear both the parties dispassionately, record the contentions of both the parties and make his final observation on that basis for preparing the seniority list year-wise. If there is a difference of view expressed, the same may have to be recorded in that note. The final decision for accepting one view or the other if there is a difference of opinion should be left to the Principal Collector of Customs and Central Excise, Hyderabad. That process in our view will enable to issue a seniority list which as stated earlier may not be resisted by a sizeable number of employees.

28. A point may arise whether if such a consensus seniority list is prepared and there is a variation in the seniority from the judgment of this Tribunal or other judicial forums, that may lead to a contempt case. That difficulty can easily be over-come by bringing to the notice that variation to the concerned judicial forum suitably and after getting clearance from the judicial forum, final decision on the seniority can be taken. By that way contempt proceedings can be avoided.

29. The above suggestion may be examined by the Principal Collector of Customs and Central Excise, Hyderabad for implementation."

37. In compliance of the directions of the tribunal dated: 13.2.1997, for the 2nd time, the seniority list was again prepared as on 1.1.1992 by proceedings dated: 15.10.1997 and the same was ordered to be final as on 1.4.1988. Aggrieved by the said seniority list, again the promotee officers filed Review Applications No.56 to 59 of 1998 in O.A.NO. 1323 of 1993 and Batch. However, by an Order dated: 28.7.1999, the Review Applications were dismissed confirming the Order dated: 13.2.1997 approving the principle laid down in 1986 O.M. and 1990 O.M.

38. At the same time, O.A.NO. 429 of 1998 and Batch were filed by the P.R.Is. questioning the seniority list dated: 15.3.1979 and they were disposed of by a judgment dated: 30.3.2000 without recording any finding, in view of fresh exercise has to be made by the department.

39. In pursuance of the judgment a fresh exercise was again undertaken for the third successive time. The Chief Commissioner on 13.2.1999 nominated the Commissioner of Customs and Central excise, Hyderabad-III to head the Committee with five representatives from D.R.Is. and P.R.Is. to settle the seniority dispute. The Commissioner also nominated five officers from D.R.Is. and P.R.Is. The committee held its sitting on various dates and submitted a report to the Chief Commissioner on 22.10.2000. On the directions of the Chief Commissioner, the Chair Person submitted another report on 11.10.2000 so as to be in conformity with para 4 of 1986 OM. The indents placed before the Staff Selection Committee and the report of the Commissioner supports surplus of direct recruits as on the date for arriving number of direct recruit vacancies and to this ratio of 3:1 may be applied to arrive at promotion vacancies and then calculate total vacancies by adding both while preparing the note. Taking into consideration the relevant material and reports and the notes submitted by the Committee and the officers, the Chief Commissioner approved the seniority list as on 1.1.2002 as in the cadre of Inspector of Central Excise and provisional seniority list was prepared on 29.1.2002 calling for the objections from the individuals. After considering the objections, the provisional seniority was made final on 29.1.2002 by proceedings dated: 27.1.2002. At this pont of time batch of O.As. which are subject matter in the present Writ Petitions were filed against the provisional seniority list. However, in terms of the directions, the competent authority gave a detailed reply answering all the objections made by the P.R.Is. n proceedings dated: 7.8.2002.When the final list was approved again the revised O.A. was filed challenging the final seniority list.

40. As can be seen from the prayer of the O.As. of P.R.Is. with regard to the seniority list is only to a very limited extent namely their placement till 1992 and 1993 direct recruits was illegal on the ground that they were promoted much earlier to 1991 and 1992 and they were also regularised in some cases. It is also their case that they were appointed to regular vacancies and therefore, their services ought to have regularised from the date of their promotion and they ought not be placed till 1991-

1992 direct recruits. They also sought for fixation of seniority on the basis of the length of continuous service and for that purpose, they approached the tribunal to interfere with the 1986 OM if found necessary. But this prayer as could be seen is wholly misconceived. They have not challenged the validity of the 1986 OM and in fact the validity of OM was upheld by the tribunal in earlier batch of O.As. If the P.R.Is. wanted to challenge the proceedings, they must make specific prayer to that effect but they cannot make a prayer requesting the Court to fix the seniority on the basis of the continuous service and to sustain that plea the O.M has to be interfered and interpreted. Such a course of action is not available to the P.R.Is. Further, the prayer for fixing the seniority on the basis of the continuous service directly conflicts with the decision of Supreme Court referred to above and 1986 OM validity of which was already upheld. Therefore, both these prayers are not available to the P.R.Is. Further we also find that what remains to be considered is whether their claim for placing above direct recruits of 1991 and 1992 is justified.

41. It is to be seen that on the first occasion seniority list was prepared as on 1.1.1992 by proceedings dated: 15.10.1997. The said seniority list was not challenged by the P.R.Is., but it was only challenged by the D.R.Is. Therefore, they cannot seek better seniority than what was their position in seniority proceedings dated: 15.10.1997 as on 1.1.1992. It is noted that all the excess promotees including the applicants were not given any seniority position in seniority list dated: 15.10.1997 and the applicants and other excess promotees did not challenge the said seniority list in which they were not given any seniority position and were only shown at the bottom of the list. Having not challenged the seniority list on 15.10.1997 and the same was only challenged by the D.R.Is. it only goes to establish that they were satisfied with their respective position in that list, and therefore, they cannot be allowed to again submit explanations to seniority list revised for the 2nd time. Therefore, the tribunal ought not to have made any such directions. When the P.R.Is. did not challenge the seniority list published on 15.10.1997 showing the position as on 1.1.1992 and if their names did not figure in the seniority list, it would not be open for them again in a subsequent stage to

contend that they ought to have been fixed in the seniority above 1991 and 1992 direct recruits. They are not allowed to do so and principle of estoppel would squarely operate against them.

42. Even though judgments relied on by the learned counsel for the P.R.Is. also clearly indicate that the seniority has to be reckoned only from the date of regular promotion provided, it is within quota. In Direct Recruits' case (11th cited supra), the Supreme Court held that where appointments were made from more than one source, it is permissible to fix the ratio for recruitment from the different sources, and if rules have been framed in this regard, they should have been ordinarily be followed strictly. But, if it becomes impossible to adhere to the existing quota rules, it should be substituted by appropriate rule to meet the needs of the situation. In case, the quota rule is not followed continuously for a number of years, because it was impossible to do so the inference was irresistible that the quota rule had broken down, and the appointments were made from one source in excess of the quota, but are made after following the procedure prescribed by the rules for the appointment, the appointees should not be pushed down below the appointees from the others source inducted in the service at a later date. It is also to be noted in this regard that in the said decision no quota rules were fixed and the rules were silent and therefore, the Supreme Court suggested that quota may be prescribed by executive instructions. It is also further observed in the said case that once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation. The corollary of the above rule is that where the initial appointment is only adhoc and not according to rules and made as a stop-gap arrangement, the officiation in such post cannot be taken into account for considering the seniority. If the initial appointment is not made by following the procedure laid down by the rules but the appointee continues in the post uninterruptedly till the regularisation of his service in accordance with the rules, the period of officiating service will be counted.

43. Under those circumstances, we do not agree with the finding of the tribunal that the promotions are based on with reference to the vacancy register. Even, if such vacancy register assuming to have been maintained regularly, but that has no relevance for the purpose of promotion of the in-service candidates. Rule 5 is only relevant rule, which governs the situation. Under those circumstances, we find that the finding of the tribunal is not sustainable. The tribunal also rendered a finding to the effect that the Order has to be construed as Calendar year and not the Recruitment year. Even though arguments were sought to be pressed into service by both the parties, but that contention is wholly irrelevant in this scenario. When once the promotion is to be carried on the basis of the indents, it makes no difference whether recruitment was financial year or calendar year. It is always co relatable to the indent placed and as already observed by illustration is a complete answer to this issue.

44. We have also gone through the reasons assigned in the proceedings dated: 7.2.2002. The Commission has traced out the genesis of the dispute and dealt with in an elaborate manner and we find that the authority has critically analysed the situation with reference to the factual matrix and recorded cogent and very convincing reasons. We hasten to extract below the contents of letter dated: 7.2.2002, which reads thus:

> **"Based on the judgment of Hon'ble Supreme Court in the case of A. Janardhana in Civil AppealNo.360 of 1980 dated: 26.4.1983 individual applications were filed in Hon'ble CAT, Hyderabad by some inspectors in A.P. Zone claiming seniority on the basis of length of service in the cadre and the same was allowed by Hon'ble CAT. When the first of such judgments vide O.A.NO. 1556/86, dated: 05.07.1988 was received, a belated SLP was filed by the department in the Hon'ble Supreme Court, which was dismissed for latches. Thereafter the seniority list was revised following the ratio of the judgment of Hon'ble Supreme Court as confirmed in many Orders of Hon'ble CAT, Hyderabad and a revised seniority list (as on 01.01.1992) was issued vide C.No.II/34/3/93-Estt, dated: 30.04.1993.Aggrieved by the said seniority list applications were filed in Hon'ble CAT, Hyderabad**

by several Direct Recruit Inspectors who prayed that the preparation of seniority list should be governed by the instructions of Ministry of Home Affairs vide O.M. dated: 22.12.1959 for the period upto 28.02.1986 and by the instructions of the Department of Personnel & Training vide O.M. dated: 07.02.1986 for the period on and after 01.03.1986.The Division Bench of Hon'ble CAT, Hyderabad which heard these arguments finally delivered their judgment, dated: 13.02.1997 after referring the matter to the Full Bench of the Hon'ble CAT and confirmed that the above referred to O.Ms dated: 22.12.1959 and 07.02.1986 of Ministry of Home Affairs and DOPT respectively shall alone be followed for the preparation of seniority list in the grade of Inspectors for the respective periods and that the Supreme Court's Judgment in a. Janardhana's case should not be made applicable to the present case as was earlier decided by Hon'ble CAT in O.A.NO. 156/86. For convenience the points referred by Hon'ble CAT to the Full Bench and the decision of the Full Bench thereon are as follows:

Points preferred:

a. **Whether the O.M.No.35014/2/80-Estt.(D), dated: 07-02-1097 of the Govt. of India, DOPT is prospective or retrospective;**

b. **Whether Janardhana's case (1982(2) SLR 113) lays down that entry into the grade has to be taken as the basis for fixing inter se seniority of promotees and direct recruits even when the quota rule does not fall or whether the quota rule is not relaxed in cases where there is power of relaxation.**

Decision of Full Bench on the above two points:

a. **The O.M. dated: 07.02.1986 is prospective in its operations;**

b. **Janardhana's case will have to be understood on its own and not as understood by the Tribunal in O.A.NO. 156/86.**

Accordingly seniority list dated: 30.04.1993 was quashed by Hon'ble CAT with directions to revise the seniority list as per the principles and guidelines laid down in the O.Ms dated: 22.12.1959 and 07.02.1986. Thereafter, a revised seniority list was issued (as on 01.01.1992) vide C.No.II/34/12/97-E.7(PF), dated: 15.10.1997 and ordered as final on 01.04.1998. Several

applications (Original Applications as well as Review Applications) were filed in Hon'ble CAT against judgment dated: 13.02.1997 of the Hon'ble CAT. After hearing these applications Hon'ble CAT vide their judgment dated: 28.07.1999 while upholding the earlier judgment dated: 13.02.197 which confirmed the relevance of the instructions issued in the two O.Ms. of Ministry of Home Affairs and DOPT dt. 22.12.1959 and dated: 07.02.1986 respectively, observed as under:

> **"1. that in any seniority dispute there will always be difference of opinion and no judicial forum can satisfactorily solve seniority dispute. One party or the other will always have some grouse. The only way to bring down the seniority dispute to a considerable extent is to prepare a seniority list in a 'consensus' manner.**
>
> **2. that the Principal Collector (now Chief Commissioner) may form a Committee comprising of both direct recruits an promotees in equal number and entrust the seniority dispute to be looked into by that Committee. That Committee may be headed by senior Commissioner of the Department who will hear and record the contentions of both the parties and make his final observation on that basis for preparing the seniority list.**
>
> **3) that final decision for accepting one view or the other if there is a difference of opinion should however be left to the Principal Collector of Customs and Central Excise, Hyderabad (now Chief Commissioner, Hyderabad Zone)".**

While re-examining the seniority for the third time as above, inconsistencies were observed in the method adopted for calculating the number of vacancies arising in ach year in the seniority list prepared and published on 15.10.1997 and to this extent it was observed that Ministry of Home Affairs and DOPT instructions were not followed. The actual number of appointments made under DR quota was taken as the number of vacancies for the purpose of calculation of number of vacancies under Promotee quota instead of the actual number of vacancies reflected in the indents placed by the Department before the Staff Selection Commission is prescribed in the O.M. dated: 07.02.1986. As the correct number of vacancies in each year was fundamental to the issue of fixing seniority, because 25% of the total number of vacancies meant for promotee Inspecgor decided not only the number of regular promotions that could be ordered in a year but also the seniority of these officers every year. On the basis of the copies of the indents placed by the Department the correct number of vacancies were identified for

direct recruitment, which automatically indicated the actual number of promotions that the Department could have ordered in the promotee category. When such an analysis was done it was discovered that in several years the number of promotions in the promotee quota was more than the permissible limit. This has obviously been the cause for litigation on the seniority issue by the Direct Recruit Inspectors who had a grievance when their seniority got fixed below promotee Inspectors who were promoted in excess of the legitimate quota, and by promotee Inspectors who in spite of being wrongly promoted ahead of their turn always represented for retaining their promotion under the impression that they were promoted against a regular vacancy as per the orders issued to them. The excess promotions in the promotee quota were also noticed from the fact that adhoc promotions ordered against cost recovery posts, deputation vacancies and against direct recruitment quota, were wrongly regularized eventually without any reference to regular vacancies that arose in subsequent years. Furthermore, there also seems to be a notion that when 95 Inspectors were promoted as Superintendents vide Ministry F.No.A.11013/154/80-Ad.IV, dated: 09-02-1983 which was ordered by the Ministry as a one time up-gradation due to acute stagnation, an equal number of posts of Inspectors became available for appointment through direct recruitment and promotion. This notion is wrong because the said Ministry letter dated: 09.02.1983 clearly clarified that the 95 posts of Inspectors were itself upgraded to the post of Superintendent and got revived as and when the upgraded Superintendents vacate the post either on retirement on promotion etc. and as and when these 95 upgraded posts got revived accordingly appointments were also ordered in the normal course by treating them as regular vacancies in the cadre of Inspector. As regards the percentage of the appointments in Compassionate, Sports & Inter Commissionerate Transfer Quota, it has been ensured that the total number of appointments under Direct Recruitment Quota and Promotee Quota in any year did not exceed the total number of regular vacancies in that year and that the full permissible extent (of 25%) was allotted to the Promotee Officers. Further more it is not the case of Promotee Officers that the appointments made in Compassionate, Sports and Inter Commissionerate Transfer Quota were not at the cost of quota meant for promotee Officers. Therefore, Promotee Officers can have no grievance especially when the number of appointments was within the Direct Recruitment Quota. The above approach is also within the guidelines and observations of Hon'ble CAT judgment dated: 28.07.1999.

The disputes regarding seniority were accordingly once again examined in the manner as directed Hon'ble CAT, Hyderabad and a provisional seniority list was issued after it was approved by the Chief Commissioner of Central Excise, Hyderabad vide. C.No.II/34/12/97-Estt.PF.III, dated: 29.04.2002 followed by a final seniority list vide C.No.II/34/12/97-Estt.PF.III, dated: 22.07.2002 wherein besides following the instructions contained in O.Ms dated: 22.12.1959 and dated: 07.2.1986 of the ministry of Home Affairs and DOPT respectively the number of regular vacancies for each year were correctly determined and adopted for regulating the number of promotee officers to be promoted each year. As a natural corollary the number of promotee officers in excess of the correct quota available had to be deemed to have been promoted on adhoc basis and their seniority fixed when a regular post became available in their turn in subsequent years as required to be done vide para 5 of O.M. dt. 07.02.1986. In this exercise therefore, every promotee Inspector has been given a seniority in the year in which he was lawfully required to be promoted against regular vacancies. In other words because of errors made in the calculation of regular vacancies and because of promotions ordered in excess of the quota for promotee officers in several years, it became necessary to shift the seniority downwards in respect of many promotee Inspectors even though some of them at the time when they were actually promoted were shown to have been promoted against regular vacancies which really was not true and correct. Furthermore, the whole exercise to restore the correct seniority of all Inspectors (direct recruit and promotee) as discussed above was undertaken as per the orders and directions of Hon'ble CAT, Hyderabad.

In view of the above reasons the points raised in your representation dated: 31.5.02 does not merit any consideration. The same is therefore, rejected."

45. We hardly find any flaw in the reasons. Hence we are of the opinion that the interference caused by the tribunal to the final s/c dated: 29.12.2003 is wholly unsustainable.

46. We also note that the Order passed by the tribunal was being sought to be reviewed at the instance of the opposite party as if it is an appeal and the tribunal

continued to entertain and pass Orders from time to time. This procedure appears to be contrary to the provisions of the Act. The Supreme Court in Ajit Kumar Rath's case (8th cited supra) observed with regard to the power of review as follows:

> "**The power of review available to an Administrative Tribunal is the same as has been given to a court under S. 114 read with O. 47, C. P. C. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application of a person on the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression "any other sufficient reason" used in Order 47, Rule 1 means a reason sufficiently analogous to those specified in the rule.**
>
> **Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment."**

47. Reviewing the decisions as an appellate authority always keeps the decision in a fluid stage and they do not get crystallised. But, in the instant case, the seniority list was being disturbed from time to time and even when the final exercise was undertaken by the department in pursuance of the Orders passed in review, the tribunal ought not to have interfered with the same. In fact, the tribunal has no power to make suggestions in the review. Even the department in all fairness respected the suggestions and implement in its true spirit, yet that is sought to be disturbed by the tribunal on imaginary and untenable grounds.

48. Thus, viewed from any angle we are of the considered view that the Order of the tribunal dated: 29.12.2003 is not sustainable and it is liable to be set aside upholding in integrated seniority of Inspector of Central Excise and Customs as on 1.1.2002 duly confirming the Order dated: 22.7.2002 as made final by proceedings dated: 7.8.2002.

49. Accordingly, the Writ Petitions are allowed and the O.As. filed by the P.R.Is. stand dismissed.

50. No costs.

_____

G.BIKSHAPATHY, J

_____

P.S. NARAYANA, J

16 -3-2005

CHV

L.R. COPY TO BE MARKED: Yes

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

….REGISTRAR

//**TRUE COPY**//

SECTION OFFICER

ONE FAIR COPY TO THE ON'BLE MR. JUSTICE G. BIKSHAPATHY

(FOR HIS LORDSHIP'S KIND PERUSAL)

ONE FAIR COPY TO THE ON'BLE MR. JUSTICE P.S. NARAYANA

(FOR HIS LORDSHIP'S KIND PERUSAL)

To

1.The Chief Commissioner of Customs & Central Excise,

Hyderabad Zone, Kendriya Shulk Bhavan,L.B.Stadium

Road, Basheerbagh, Hyderabad-500004

2.The Commissioner of Customs & Centre Excise Hyderabad II

Commissionerate, Kendriya Shulk Bhavan L.B.Stadium

Road, Basheerbagh, Hyderabad-500004

3.The Chairman, Central Board of Excise and Customs,

Department of Revenue, Ministry of Finance, North

Block, New Delhi-110 001

4.Secretary,Department of Personal and Training, Ministry of

Home Affairs, North Block, New Delhi-1100 001

5.The Secretary, Ministry of Finance and Company Department of Revenue,

Union of India, 152, CBEC,Computer Center & Project Office,

North Block, New Delhi.

6. The Chairman,Central Board of Customs, North Block, New

Delhi.

7.Member (P & V), Central Board of Excise and Customs,

Ministry of Finance Department of Revenue North Block,

New Delhi.

8.The Commissioner of Customs and Central Excise, Hyderabad-III Commissionerate, L.B. Stadium Road, Basheer Bagh, Hyderabad - 11.

9.Under Secretary, Ministry of Law, Justice & Company Affairs,

Govt. of India, New Delhi.

10. The Secretary, A.P. High Court Bar Association, High Court Buildings, Hyderabad.

11. Sri A.Rajashekar Reddy, Asst.Solicitor General, High Court

Buildings, Hyderabad.

12. 8 L.R. copies.

13. 2 C.D. copies.

14. Two CCs to Mr. A. Rajasekhar Reddy, Advocate (OPUC)

15. One C.C. to G. Sudha, Advocate (OPUC)

16. One CC to Mr. B. Adinarayana Rao, Advocate(OPUC)

17. Three CCs to Mr. I. Koti Reddy, Advocate(OPUC)

18. One CC to Mr. C.V. Mohan Reddy, Advocate (OPUC)

19. One CC to Mr. Kesava Rao, Advocate(OPUC)

20. One CC to Mr. Y. Venkatesh Reddy, Advocate(OPUC)

21. One CC to Mr. M. Kesava Rao, Advocate(OPUC)

22. One CC to Mr. T.V. Rajeevam, Advocate(OPUC)

23. One CC to Mr. Y. Venkatesh Reddy, Advocate(OPUC)

24. **One CC to Mr. B.G. Ravinder Reddy, Advocate(OPUC)**

25. Two CCs to Mr. P. Naveen Rao, **Advocate(OPUC)**